

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 55.

Sheriff.

GENERAL ANNOTATION.

ADMINISTRATION.

At the date of its preparation for inclusion the administration of this Chapter was vested in the Minister for Justice.

The present administration may be ascertained by reference to the most recent Determination of Titles and Responsibilities of Ministers, made under Section 148(1) of the Constitution.

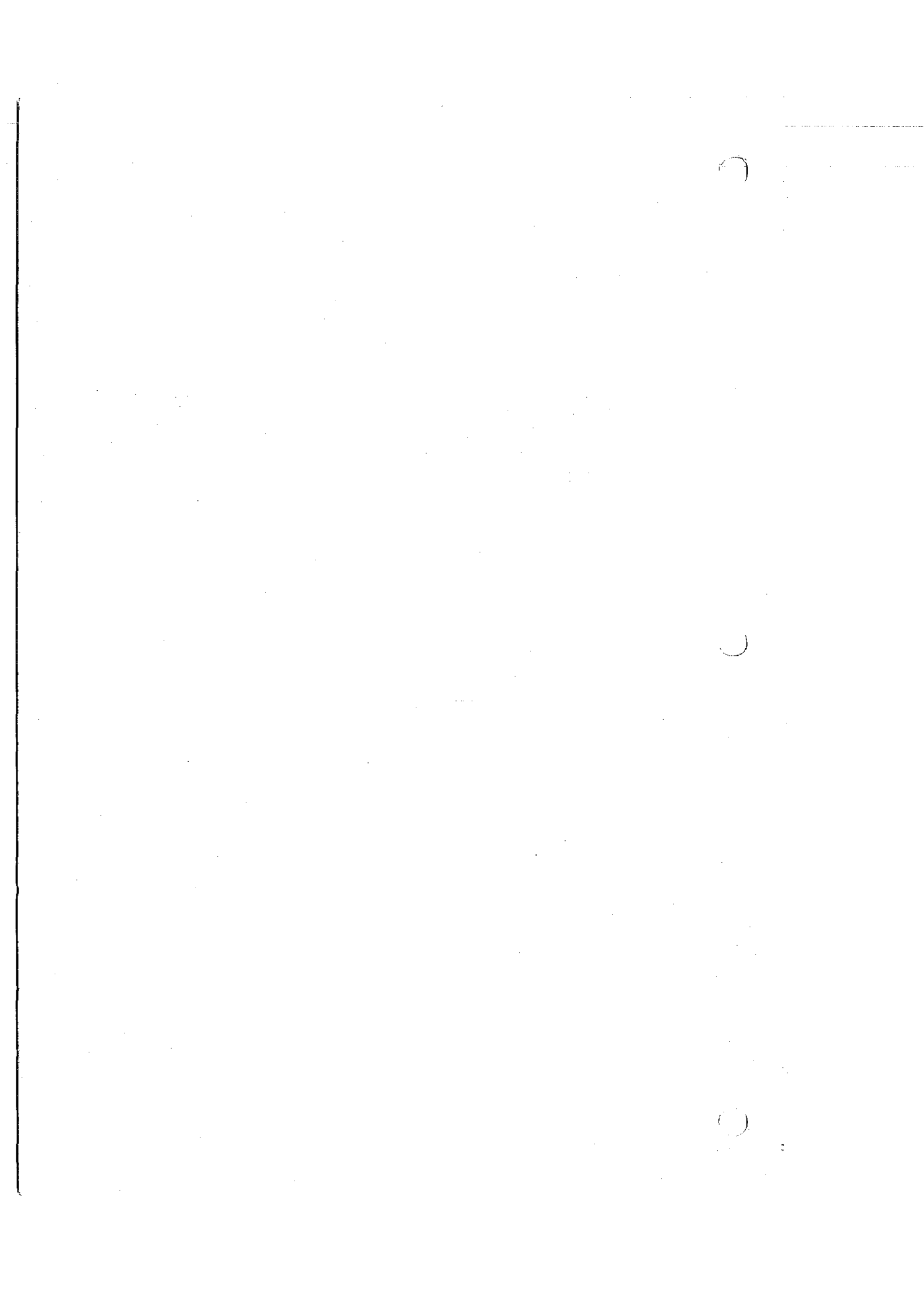
References in and in relation to this Chapter to—

“the Departmental Head”—should be read as references to the Secretary for Justice;

“the Department”—should be read as references to the Department of Justice.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER No. 55.

Sheriff Act.

ARRANGEMENT OF SECTIONS.

1. Interpretation—
 "Court"
 "sell by auction"
 "the Sheriff".
2. Appointment of Sheriff and officers.
3. Duties of Sheriff in legal process.
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5. Property taken in execution may be auctioned.
6. Deposit for expenses to be made with Sheriff.
7. Action against Sheriff or Sheriff's officer.
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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 55.

Sheriff Act.

Being an Act relating to the appointment, powers and functions of a Sheriff for Papua New Guinea.

1. Interpretation.

In this Act, unless the contrary intention appears—

“Court” means the Supreme Court, the National Court or a District Court;

“sell by auction” means to sell any property in any manner by which—

- (a) the highest or the lowest bidder is the purchaser; or
- (b) the first person who claims the property submitted for sale at a certain price named by the person acting as auctioneer is the purchaser; or
- (c) there is a competition for the purchase of any property in any way commonly known and understood to be by way of auction;

“the Sheriff” means the Sheriff appointed under Section 2:

2. Appointment of Sheriff and officers.

The Head of State, acting on advice, may appoint—

- (a) a Sheriff to carry out the provisions of this Act; and
- (b) such Sheriff's officers as are necessary.

3. Duties of Sheriff in legal process.

The Sheriff, by himself or his officers, shall—

- (a) execute such process as is directed to him by the Court; and
- (b) as required, make a return to the Court of any such process and of the manner of its execution; and
- (c) receive and detain all persons committed to his custody; and
- (d) discharge any such person when directed to do so by the proper authority.

4. Sheriff to give security.

If directed by the Head of State, acting on advice, the Sheriff or a Sheriff's officer shall give security to the State—

- (a) by bond or recognizance of himself or two responsible sureties; or
- (b) in some other recognized legal manner,

in such sum as is fixed by the Head of State, acting on advice, conditioned for—

- (c) the due performance of the duties of his office; and
- (d) the payment by him, as directed, of all money that comes into his hands.

5. Property taken in execution may be auctioned.

Notwithstanding anything in this or in any other Act, the Sheriff, without having—

- (a) an auctioneer's licence issued under the *Auctioneers Act*, or

(b) any other licence,

may sell by auction any property that is taken by him in execution.

6. Deposit for expenses to be made with Sheriff.

(1) Where any process is left with the Sheriff for execution by him, the person leaving the process shall, if so required by the Sheriff, deposit with the Sheriff a sufficient sum for the payment of the necessary expenses arising out of the execution of the process.

(2) If a dispute arises as to the amount to be deposited under Subsection (1), the matter shall be referred—

(a) in the case of process issued out of the Supreme Court or the National Court—to a Judge; or

(b) in the case of process issued out of a District Court—to a Magistrate of THE District Court,

whose decision is final¹.

7. Action against Sheriff or Sheriff's officer.

(1) A person aggrieved by an act of default of the Sheriff or a Sheriff's officer has the same remedy by action as before 1 May 1975 (being the date of commencement of the pre-Independence *Sheriffs Act (Amalgamated) 1973*).

(2) An action against the Sheriff or a Sheriff's officer shall be brought against "The Sheriff of Papua New Guinea", and any damages or costs adjudged to be recovered by the plaintiff in an action shall be paid out of the Consolidated Revenue Fund.

8. 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.

¹ But see Constitution, Section 155.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 55.

Sheriff Regulation.

ARRANGEMENT OF SECTIONS.

1. Sheriff Account.
2. Purpose of Trust.
3. Moneys to be paid into Sheriff Account.
4. Audit.
5. Fees, etc., to be transferred to Consolidated Revenue.
6. Payments out of Sheriff Account.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 55.

Sheriff Regulation.

MADE under the *Sheriff Act*.

1. Sheriff Account.

There is established a Trust Account, within the meaning of Section 16 of the *Public Finances (Control and Audit) Act*, to be known as the Sheriff Account.

2. Purpose of Trust.

The purpose of the Trust Account is to receive—

- (a) all moneys payable to or recovered by the Sheriff or his officers; and
- (b) all charges, fees, poundage and expenses which the Sheriff is entitled to charge for his services.

3. Moneys to be paid into Sheriff Account.

All moneys under Section 2(a) and (b) shall be paid into the Sheriff Account.

4. Audit.

- (1) The Auditor-General shall audit the Sheriff Account at least once in each year.
- (2) After carrying out an audit under Subsection (1), the Auditor-General shall certify how much of the Sheriff Account represents charges, fees, poundage and expenses.

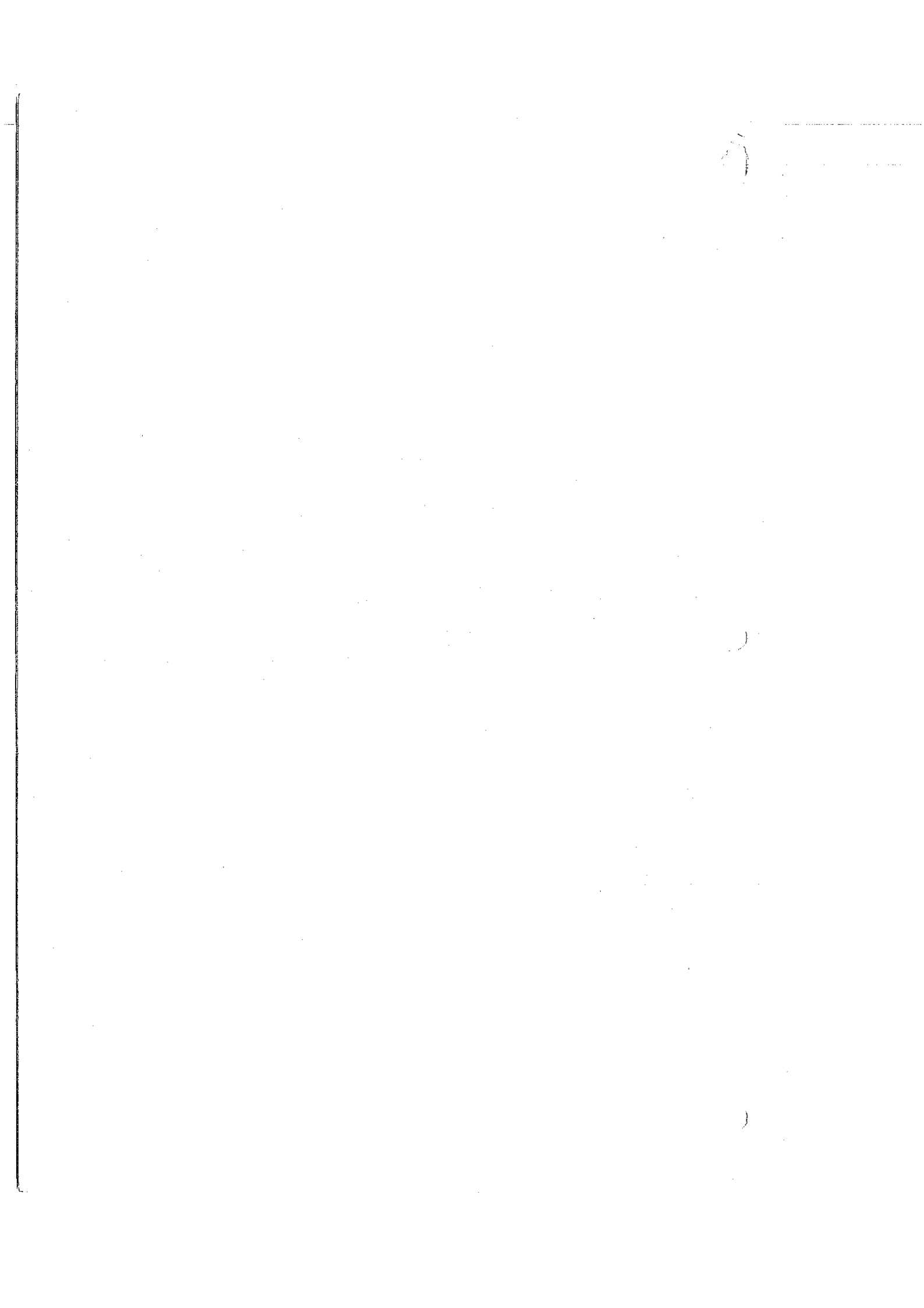
5. Fees etc., to be transferred to Consolidated Revenue.

The amount certified under Section 4(2) as representing charges, fees, poundage and expenses shall be transferred to the Consolidated Revenue Fund.

6. Payments out of Sheriff Account.

The following moneys may be paid out of the Sheriff Account—

- (a) amounts due to judgement creditors; and
- (b) the amount certified under Section 4(2); and
- (c) out-of-pocket expenditure incurred prior to the issues of a certificate under Section 4(2) by the Sheriff or his officers in connexion with the execution of their duties.



INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 55.

Sheriff.

APPENDIX 1.

SOURCE OF THE SHERIFF ACT.

Part A.—Previous Legislation.

Sheriff Act (Amalgamated) 1973.

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference ¹ .
1	3
2	4,5
3	6
4	7
5	8
6	9
7	10
8	11

APPENDIX 2.

SOURCE OF THE SHERIFF REGULATION.

Part A.—Previous Legislation.

Sheriff Regulation 1983 (Statutory Instrument No. 15 of 1983)

Part B.—Cross References.

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

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

²Unless otherwise indicated, references are to the regulation set out in Part A.

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