

Chapter 139.
Rural Development Bank Act 1965.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 139.

Rural Development Bank Act 1965.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Rural Development Bank Act 1965,¹

²Being an Act relating to matters connected with the operations of the successor company to the Rural Development Bank.

PART I. – PRELIMINARY.

1. INTERPRETATION.

In this Act, unless the contrary intention appears–

³⁴**“the Board”** means the Rural Development Bank Board established by Section 8;

“the Ex-servicemen’s Credit Board” means the Ex-servicemen’s Credit Board established by the *Ex-Servicemen’s Credit Act 1958*;

“finance” includes financial assistance;

“the Native Loans Board” means the Native Loans Board established by the *Native Loans Fund Act 1955*;

⁵**“officer”** means an officer of the successor company;

⁶**“Rural Development Bank”** means the Rural Development Bank of Papua New Guinea;

¹ Short title amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s1.

² Long title amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s2, repealed and replaced by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

³ Section 1 (definition of “the Agricultural Bank”) repealed by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993); Section 1 (definition of “the Development Bank”) repealed by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s3(b).

⁴ Section 1 (definition of “the Board”) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s3(a).

⁵ Section 1 (definition of “officer”) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s3(c); amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁷“**successor company**” means the successor company nominated under Section 74;”

“**this Act**” includes the regulations.

2. EFFECT.

This Act has effect subject to the *Central Banking Act 2000* and the *Banks and Financial Institutions Act 2000*, and to the regulations made under those Acts.

⁶ Section 1 (definition of “Rural Development Bank”) inserted by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s3(d).

⁷ Section 1 (definition of “successor company”) inserted by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

PART II.⁸ –

3 - 10⁹. [Repealed.]

⁸ Part II: heading repealed and replaced by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s4; Part II repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁹ Part II: heading repealed and replaced by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s4; Part II repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 3(2) added by No. 31 of 1984, s5; Section 3(3) inserted by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s5; Section 3 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 4(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 4(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 4 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 5(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 5(1)(a)(iii) inserted by *Agriculture Bank (Amendment) Act 1986* (No. 50 of 1986); Section 5(1)(ab) inserted by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s6; Section 5(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 5 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 6(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 6(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 6(3)(a) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 6 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 7(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 7(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 7(3) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 7 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 8(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 8 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 10(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 10(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 10(3)(a) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 10(4) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 10(6) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 10 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

PART III.¹⁰ –**11 - 18¹¹. [Repealed.]**

¹⁰ Part III repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 20(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule.

¹¹ Part III repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 11(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 11(1)(ca) inserted by *Agriculture Bank (Amendment No. 2) Act 1987* (No. 32 of 1987); Section 11(2) amended by *Agriculture Bank (Amendment) Act 1987* (No. 17 of 1987), s1(a); Section 11(3) repealed by *Agriculture Bank (Amendment) Act 1987* (No. 17 of 1987), s1(b); Section 11(4) repealed by *Agriculture Bank (Amendment) Act 1987* (No. 17 of 1987), s1(c); Section 11(6) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 11 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 12 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 13 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 13 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 14 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 15 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 16(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 16(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 16(3) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 16 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 17 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 18(1) amended by *Agriculture Bank (Amendment) Act 1987* (No. 17 of 1987), s2(a); Section 18(2) repealed and replaced by *Agriculture Bank (Amendment) Act 1987* (No. 17 of 1987), s2(b); Section 18 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 20(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule.

PART IV.¹² –

21 - 24¹³. [Repealed.]

¹² Part IV repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹³ Part IV repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 21(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 21(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 21(3) amended by *Public Service (Management) (Consequential Amendments) Act 1986* (No. 29 of 1986), s39(a); Section 21(3) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 21(4) repealed and replaced by *Public Service (Management) (Consequential Amendments) Act 1986* (No. 29 of 1986), s39(b); Section 21(4) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 21(5) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 21 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 22 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 22 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 23(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 23(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 23 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 24(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 24(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 24(3) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 24(4) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 24 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

PART V.¹⁴ –**25 - 32¹⁵. [Repealed.]**

¹⁴ Part V repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹⁵ Part V repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 25 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12 Schedule.; Section 25 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 26(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 26(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 26 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 27 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 27 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 28 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 28 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 29 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 29 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 30 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 30 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 31 replaced by No. 30 of 1982, s7, amended by No. 8 of 1983, s5; Section 31(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 31(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 31(3) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; Section 31 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2; Section 32(1) amended by No. 47 of 1977, Schedule 1; Section 32(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12; Section 32(2)(a) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12; Section 32 repealed by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

PART VI. – EX-SERVICEMEN’S CREDIT LOANS.

Division 1.

Preliminary.

33. INTERPRETATION OF PART VI.

In this Part, unless the contrary intention appears–

“agricultural enterprise” includes a farming, horticultural, pastoral or grazing enterprise and any other prescribed form of primary production;

¹⁶**“borrower”** means a person who has been granted a loan to which this Part applies and who has not discharged it, and includes a member of the family of a deceased borrower where–

(a) that member of the family takes under the will or intestacy of the borrower–

(i) the borrower’s interest in the agricultural enterprise carried on by the borrower; and

(ii) the borrower’s beneficial interest in the property the subject of the security for the loan; and

(b) the successor company approves of the member of the family carrying on the agricultural enterprise and continuing the loan;

¹⁷**“home maintenance area”** means an area developed to a stage of production (based on suitable land use) that, on average yields and prices, would, in the opinion of the successor company, in the particular case be sufficient to provide a reasonable living for the borrower after meeting such financial commitments as would be incurred by a person possessing no capital;

“loan to which this Part applies” means a loan referred to in Section 34, and includes a further loan made under Division 3;

“member of the family”, in relation to a person, means his or her wife or husband, son, daughter, grandson, granddaughter, adopted step-son, step-daughter, adopted son or adopted daughter;

¹⁸**“security under this Part”** means any security held by the successor company to secure a loan to which this Part applies;

¹⁹**“working capital”** includes a living allowance at such rate as is fixed by the successor company, generally or in a particular case.

¹⁶ Section 33 (definition of “borrower”) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹⁷ Section 33 (definition of “home maintenance area”) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹⁸ Section 33 (definition of “security under this Part”) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

34. APPLICATION OF PART VI.

²⁰This Part applies in relation to loans by the Ex-servicemen's Credit Board for which the successor company became the lender by virtue of Section 11A of the *Ex-servicemen's Credit Act 1958*.

Division 2.***Conditions of Loans.*****35. CONDITIONS OF LOANS.**

(1)²¹ ²²Unless the successor company in any particular case approves otherwise, a borrower who has received a loan to which this Part applies and who has not discharged it shall reside on, and devote his full time to, the management of the property the subject of the loan.

(2)²³ ²⁴No property over which the successor company has a security under this Part may be assigned, transferred, sold, leased, sub-leased, mortgaged or otherwise dealt with without the prior written approval of the Bank, and any assignment, transfer, sale, lease, sub-lease or dealing entered into contrary to this subsection is void and of no effect.

36. INTEREST.

(1) Interest is payable on a loan to which this Part applies at the prescribed rate.

(2) Interest is payable on any arrears of principal or interest under a loan to which this Part applies at the prescribed penalty rate.

(3)²⁵ ²⁶The successor company may, in its discretion, postpone payment of interest until the agricultural enterprise the subject of the loan has reached what is, in the opinion of the Bank, a reasonable degree of productivity, at which time the Bank may order that any amount of interest then due and unpaid be added to the capital sum.

¹⁹ Section 33 (definition of "working capital") amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

²⁰ Section 34 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

²¹ Section 35(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

²² Section 35(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

²³ Section 35(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

²⁴ Section 35(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

²⁵ Section 36(3) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

²⁶ Section 36(3) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

37. REPAYMENTS.

(1)²⁷ ²⁸The amount of principal and interest due under a loan to which this Part applies is repayable in such instalments and at such times as the successor company determines.

(2)²⁹ ³⁰The date on which the first instalment is payable is as determined by the successor company.

(3) The maximum period for repayment of a loan to which this Part applies, together with interest, is 25 years from the date of the grant of the loan.

(4)³¹ ³²If, on a day on which repayment of an instalment of principal and interest is due, a borrower pays to the successor company an amount less than the total amount due, the Bank may, in its discretion and in such manner as it thinks proper, allocate the amount between the principal and interest, or to the principal or interest, due.

(5)³³ ³⁴Where an instalment of principal or interest is not paid within 30 days of the date on which repayment is due, the successor company may take any action that it thinks desirable to recover the instalment, and may—

- (a) recover the cost of doing so as a debt; or
- (b) add the cost to the principal sum due under the loan.

(6) Notwithstanding the provisions of this Part or of the loan, or of any security under this Part, where—

- (a) the borrower contravenes or fails to comply with—
 - (i) this Part; or
 - (ii) the terms and conditions of a loan to which this Part applies or of any security under this Part; or
 - (iii) a requirement authorized by this Part; or
- (b) an instalment of principal or interest is in arrears; or
- (c) a borrower becomes bankrupt or insolvent; or

²⁷ Section 37(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

²⁸ Section 37(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

²⁹ Section 37(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

³⁰ Section 37(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

³¹ Section 37(4) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

³² Section 37(4) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

³³ Section 37(5) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

³⁴ Section 37(5) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

- (d)³⁵ in the opinion of the successor company a loan to which this Part applies has been obtained by means of, or partly by means of, a statement that is false or misleading; or
- (e)³⁶ in the opinion of the successor company a loan to which this Part applies—
- (i) has not been or is not being applied for the purpose for which it was granted; or
 - (ii) has not been or is not being carefully or economically expended,

the Bank may order that the whole amount of the debt be repayable immediately.

(7)³⁷ ³⁸The successor company may accept, on such terms and conditions as are prescribed, payment of the whole or part of the principal and interest of a loan to which this Part applies, before the time when payment is due.

38. SECURITIES FOR LOANS.

(1)³⁹ ⁴⁰A security under this Part may be in such form and subject to such terms and conditions as the successor company, in its discretion, thinks proper, in addition to or in amplification of the provisions of this Part or of the conditions of the loan.

(2)⁴¹ ⁴²In addition to any security under this Part, the successor company may take such additional security as it thinks proper.

39. INSURANCE.

(1)⁴³ ⁴⁴A borrower shall insure and keep insured, for its full insurable value, and with an insurer approved by the successor company, all property the subject of a security under this Part, or that has been obtained under or by virtue of a loan to

³⁵ Section 37(6)(d) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

³⁶ Section 37(6)(e) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

³⁷ Section 37(7) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

³⁸ Section 37(7) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

³⁹ Section 38(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁴⁰ Section 38(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁴¹ Section 38(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁴² Section 38(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁴³ Section 38(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁴⁴ Section 38(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

which this Part applies, against loss or damage by fire or any other risk that the Bank requires to be insured against.

(2)⁴⁵ ⁴⁶If a borrower fails to comply with Subsection (1), the successor company may insure the property in accordance with that subsection, and may—

- (a) recover the cost of doing so from the borrower as a debt; or
- (b) add the cost to the principal sum due under the loan.

40. MAINTENANCE OF PROPERTY.

(1)⁴⁷ ⁴⁸A borrower shall maintain in good order and condition all property the subject of a security under this Part or that has been obtained under or by virtue of a loan to which this Part applies, and shall carry out any requirement in that regard of the successor company or of a person authorized for the purpose by the Bank.

(2)⁴⁹ ⁵⁰If any property referred to in Subsection (1) suffers loss or damage, the borrower shall promptly make it good, to the satisfaction of the successor company, and shall carry out any requirement in that regard of the Bank or of a person authorized for the purpose by the Bank.

(3)⁵¹ ⁵²If a borrower fails to comply with this section, the successor company may take or cause to be taken such action as, in its discretion, it thinks desirable to maintain the property in, or to restore the property to, good order and condition or to make good the loss or damage, and may—

- (a) recover the cost of doing so from the borrower as a debt; or
- (b) add the cost to the principal sum due under the loan.

⁴⁵ Section 38(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁴⁶ Section 38(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁴⁷ Section 40(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁴⁸ Section 40(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁴⁹ Section 40(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁵⁰ Section 40(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁵¹ Section 40(3) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁵² Section 40(3) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

41. EXAMINATION AS TO APPLICATION OF LOAN.

(1)⁵³ ⁵⁴The successor company may make or cause to be made such examination as it thinks desirable to ensure that a loan to which this Part applies is being applied to the purposes for which it was made.

(2)⁵⁵ ⁵⁶The successor company may authorize, in writing, a person to make an examination under Subsection (1), and the borrower shall produce to any person so authorized all the relevant books and documents and other matters and things necessary for the purposes of the examination, and shall furnish all relevant information required by the authorized person.

(3)⁵⁷ ⁵⁸A person authorized by the successor company under this section may—

- (a) at all reasonable times, enter on any land or premises in respect of which a loan to which this Part applies has been made; and
- (b) examine the land or premises and any matter or thing on the land or premises.

42. SPECIAL CONCESSIONS.

(1) In this section, “**the assistance period**”, in relation to a loan, means, subject to Subsection (2), in the period of 12 months during the currency of the loan determined—

- (a)⁵⁹ by the successor company as the assistance period for the purposes of this section; or
- (b) by the Ex-servicemen’s Credit Board under Section 24 of the *Ex-Servicemen’s Credit Act* 1958, as the assistance period for the purposes of that section.

(2)⁶⁰ ⁶¹The assistance period shall commence at the stage in the development of a home maintenance area at which the provisions of Subsections (3) and (4) will, in

⁵³ Section 41(1) amended by *Agriculture Bank (Change of Name) Act* 1993 (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act* 1997 (No. 29 of 1997), s2.

⁵⁴ Section 41(1) amended by *Agriculture Bank (Change of Name) Act* 1993 (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act* 1997 (No. 29 of 1997), s2.

⁵⁵ Section 41(2) amended by *Agriculture Bank (Change of Name) Act* 1993 (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act* 1997 (No. 29 of 1997), s2.

⁵⁶ Section 41(2) amended by *Agriculture Bank (Change of Name) Act* 1993 (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act* 1997 (No. 29 of 1997), s2.

⁵⁷ Section 41(3) amended by *Agriculture Bank (Change of Name) Act* 1993 (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act* 1997 (No. 29 of 1997), s2.

⁵⁸ Section 41(3) amended by *Agriculture Bank (Change of Name) Act* 1993 (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act* 1997 (No. 29 of 1997), s2.

⁵⁹ Section 42(1)(a) amended by *Agriculture Bank (Change of Name) Act* 1993 (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act* 1997 (No. 29 of 1997), s2.

⁶⁰ Section 42(2) amended by *Agriculture Bank (Change of Name) Act* 1993 (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act* 1997 (No. 29 of 1997), s2.

⁶¹ Section 42(2) amended by *Agriculture Bank (Change of Name) Act* 1993 (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act* 1997 (No. 29 of 1997), s2.

the opinion of the successor company, be of the greatest benefit to the enterprise in respect of which the loan was granted.

(3) During the assistance period—

(a) a borrower is not required to make any payment on account of principal advanced or interest accrued due before the commencement of that period; and

(b) no interest accrues due in respect of principal so advanced,

other than interest on moneys advanced as working capital during that period.

(4) There is payable to a borrower during the assistance period a non-repayable living allowance at such rate and subject to such conditions as are determined by the Head of State, acting on advice, generally or in relation to a particular case.

43. WRITE-OFF.

⁶²The successor company may write off any amount owing under this Part that the Bank thinks to be irrecoverable.

44. RANKING OF DEBTS.

⁶³For the purposes of the *Insolvency Act 1951*, all debts due to the successor company under this Part rank with preferential debts prescribed in Section 119 of that Act.

Division 3.

Further Loans by the Agriculture Bank.

45. ADDITIONAL LOANS.

(1)⁶⁴ ⁶⁵Subject to this Part, the successor company may, on application, grant a further loan to a borrower in respect of the agricultural enterprise the subject of a loan to which this Part applies.

(2)⁶⁶ ⁶⁷Lack of capital does not of itself preclude a person from obtaining a loan under Subsection (1), but the successor company may make it a condition of such a

⁶² Section 43 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁶³ Section 44 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁶⁴ Section 45(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁶⁵ Section 45(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁶⁶ Section 45(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁶⁷ Section 45(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

loan to a person possessing capital that he invests in the agricultural enterprise such amount of his capital as the Bank thinks reasonable in the particular case.

(3)⁶⁸ ⁶⁹A person who has developed an agricultural enterprise to home maintenance area standard is not eligible for a loan under Subsection (1) unless in the opinion of the successor company a loan is required to enable that standard to be maintained.

(4)⁷⁰ ⁷¹A loan shall not be granted under Subsection (1) unless the successor company is satisfied that it will enable the agricultural enterprise to be developed or maintained to home maintenance area standard, and such a loan shall not be greater than is necessary for that purpose.

(5)⁷² ⁷³The successor company shall not make a loan under Subsection (1) except on the security of a transfer or first mortgage over land used or to be used in connection with the agricultural enterprise in relation to which the loan is sought.

(6) In the case of a loan to which Section 46 applies, the security referred to in Subsection (5) shall be taken over the whole of the land used or to be used in connection with the agricultural enterprise, regardless of its ownership.

(7)⁷⁴ ⁷⁵In addition to the conditions prescribed by this Part, a further loan may be made subject to such terms and conditions as the successor company thinks proper.

46. ADDITIONAL LOANS FOR CERTAIN JOINT ENTERPRISES.

(1)⁷⁶ ⁷⁷Where an enterprise the subject of an application for a further loan under Section 45 is, or is to be, owned or conducted jointly by two or more persons, not all of whom are borrowers, the successor company may grant the application if, in addition to the other requirements of this Part, the Bank is satisfied that—

- (a) the loan is to be used for the benefit of the borrower; and

⁶⁸ Section 45(3) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁶⁹ Section 45(3) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁷⁰ Section 45(4) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁷¹ Section 45(4) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁷² Section 45(5) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁷³ Section 45(5) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁷⁴ Section 45(7) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁷⁵ Section 45(7) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁷⁶ Section 46(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁷⁷ Section 46(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

- (b) the proportion of the profits of the enterprise to be taken by the borrower bears to the total of the profits the same relation as the proportion of the investment (whether in cash or otherwise) made by the borrower bears to the total investment (whether in cash or otherwise); and
- (c) in all the circumstances there are good reasons why the applicant should not be required to apply in respect of an enterprise owned or conducted, or to be owned or conducted, solely by a borrower or borrowers.

(2)⁷⁸ ⁷⁹Where a loan has been granted in accordance with Subsection (1), the successor company may at any time order that the whole amount of the loan be repayable immediately if the circumstances specified in Subsection (1)(a), (b) or (c) no longer obtain.

Division 4.

Special Provisions in Relation to Producers' Processing Organizations.

47. APPROVAL OF PRODUCERS' PROCESSING ORGANIZATIONS.

⁸⁰The successor company may, by notice in the National Gazette, approve as an approved producers' processing organization a company, co-operative society or other organization incorporated in the country—

- (a) that is, or is to be, wholly or mainly engaged in the processing, or processing and marketing, of primary produce; and
- (b) the articles of association or other constitution of which provide or provides that—
 - (i) not less than 75% of the shares and of the voting power of the shareholders are always held by primary producers engaged wholly or mainly in the production of the primary produce in respect of which, or in relation to which, the business of the organization is, or is to be, carried on; and
 - (ii)⁸¹ the provisions of the articles of association or other constitution referred to in Subparagraph (i) shall not be altered without the approval of the successor company.

⁷⁸ Section 46(2) amended by *Agriculture Bank (Change of Name) Act* 1993 (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act* 1997 (No. 29 of 1997), s2.

⁷⁹ Section 46(2) amended by *Agriculture Bank (Change of Name) Act* 1993 (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act* 1997 (No. 29 of 1997), s2.

⁸⁰ Section 47 amended by *Agriculture Bank (Change of Name) Act* 1993 (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act* 1997 (No. 29 of 1997), s2.

⁸¹ Section 47(b)(ii) amended by *Agriculture Bank (Change of Name) Act* 1993 (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act* 1997 (No. 29 of 1997), s2.

48. LOANS TO INDIVIDUALS.

(1)⁸² ⁸³With the approval of the successor company, and on such terms and conditions as the Bank thinks proper, such portion as the Bank thinks proper of a loan to which this Part applies may be used by the borrower for the purchasing of shares in a producers' processing organization approved under Section 47 that is carrying on, or proposes to carry on, the business of processing, or processing and marketing, the primary produce in respect of which the loan was granted.

(2) Where portion of a loan to which this Part applies is used under Subsection (1) for the purchasing of shares—

(a)⁸⁴ the share certificates or other documents of title shall be lodged with the successor company by way of security; and

(b) the shares shall not be transferred or charged without the consent of the Bank.

(3) A transfer or charge entered into in contravention of Subsection (2)(b) is void.

Division 5.***General.*****49. OBTAINING LOAN BY MISREPRESENTATION.**

A person who knowingly makes an untrue statement for the purpose of obtaining a loan to which this Part applies (or would, if the application for the loan had been successful, apply), for himself or for another person, by means of personation or a fraudulent device is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding six months.

50. OBSTRUCTION.

A person who—

(a) directly or indirectly, hinders or obstructs a person in the exercise of his powers or the performance of his duties under this Part; or

(b) fails to comply with a requirement under this Part,

is guilty of an offence.

Penalty: A fine not exceeding K40.00.

⁸² Section 48(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁸³ Section 48(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁸⁴ Section 48(2)(a) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

PART VII. – NATIVE LOANS FUND LOANS.

51. INTERPRETATION OF PART VII.

In this Part–

“**borrower**” means a person who has received a loan to which this Part applies and who has not completely repaid the loan in accordance with the terms on which it was made;

“**interest day**” means 31 March, 30 June, 30 September or 31 December, as the case requires, in any year;

“**interest period**” means the period commencing on the day after an interest day and concluding on the next interest day;

“**loan to which this Part applies**” means a loan referred to in Section 52.

52. APPLICATION OF PART VII.

⁸⁵This Part applies in relation to loans for which the successor company became the lender by virtue of the *Papua and New Guinea Development Bank (Native Loans Fund) Act 1969*.

53. REPAYMENT OF LOANS.

(1)⁸⁶ ⁸⁷Subject to Section 56 and to Subsections (4) and (5), a loan to which this part applies shall be repaid to the successor company in accordance with the terms and conditions under which it was made.

(2)⁸⁸ ⁸⁹The terms and conditions under which a loan to which this part applies was made shall be deemed to include provision for the payment to the successor company of interest at the same periods, and at the same rate, as applied in respect of the loan immediately before the take-over day.

(3)⁹⁰ ⁹¹Subject to Subsection (5), if interest on a loan, or an instalment of principal and interest, is not paid within three months after it becomes due the successor company may call in the whole amount of principal and interest.

⁸⁵ Section 52 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁸⁶ Section 53(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁸⁷ Section 53(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁸⁸ Section 53(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁸⁹ Section 53(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁹⁰ Section 53(3) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁹¹ Section 53(3) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

(4)⁹² ⁹³The successor company may postpone, for any period, the payment of a sum due for principal and interest, or for principal or interest, on such terms and conditions as are determined by the Bank.

(5) For the purposes of Subsection (3), where the payment of a sum due for principal and interest, or for principal or interest, has been postponed under Subsection (4), payment of that sum becomes due on the date to which payment has been postponed.

54. SPECIAL PROVISIONS RELATING TO PERIODIC ADVANCES.

Where a loan to which this Part applies is by way of periodic advances, interest shall be calculated on each interest day in respect of the balance of advances outstanding on the first day of the interest period that ends on that interest day.

55. EXAMINATION AS TO APPLICATION OF LOAN MONEYS.

(1)⁹⁴ ⁹⁵The successor company may make or cause to be made such examination as it thinks desirable to ensure that a loan to which this Part applies is being applied to the purposes for which it was made.

(2)⁹⁶ ⁹⁷The successor company may authorize, in writing, a person to make an examination under Subsection (1), and the borrower shall produce to any person so authorized all the relevant books and documents and other matters and things necessary for the purposes of the examination.

(3)⁹⁸ ⁹⁹A person authorized by the successor company under this section may—

- (a) at all reasonable times, enter on any land, vessel or premises—
 - (i) in respect of which a loan to which this Part applies has been made; or
 - (ii) where goods advanced under the *Native Loans Fund Act 1955* might reasonably be expected to be situated; and
- (b) examine the land, vessel, premises or goods.

⁹² Section 53(4) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁹³ Section 53(4) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁹⁴ Section 55(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁹⁵ Section 55(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁹⁶ Section 55(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁹⁷ Section 55(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁹⁸ Section 55(3) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

⁹⁹ Section 55(3) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

56. MISAPPLICATION OF LOANS.

¹⁰⁰If in the opinion of the successor company—

- (a) a loan to which this Part applies has not been applied, or goods advanced under the *Native Loans Fund Act 1955* have not been used, for the purpose for which it was made or they were advanced; or
- (b) any such loan or goods has or have not been carefully and economically expended or used; or
- (c) the borrower has failed to comply with the provisions of, or has committed an offence against, this Part or the *Native Loans Fund Act 1955* in relation to the loan,

the Bank may refuse to pay any further instalments of the loan or to advance any further goods, and may at once call in the whole amount of the principal and interest owing by the borrower.

57. NATURE OF LOANS TO WHICH PART VII. APPLIES.

¹⁰¹Subject to this Part, a loan to which this Part applies shall be deemed to be a loan by the successor company to the borrower in the ordinary course of the business of the Bank.

58. PRIORITIES OF DEBTS.

¹⁰²For the purposes of the *Insolvency Act 1951*, all debts due to the successor company by virtue of loans to which this Part applies rank with preferential debts prescribed in Section 119 of that Act.

¹⁰⁰ Section 56 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹⁰¹ Section 57 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹⁰² Section 58 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

PART VIII. – SPECIAL PROVISIONS RELATING TO THE FORMER EX-SERVICEMEN’S CREDIT SCHEME AND NATIVE LOANS FUND.

59. INTERPRETATION OF PART VIII.

In this Part–

¹⁰³“**authorized officer**” means the Managing Director, the Deputy Managing Director or an officer of the successor company appointed by the Managing Director or the Deputy Managing Director to be an authorized officer for the purposes of this Part;

“**instrument to which this Part applies**” includes a contract or agreement (whether express or implied), bond, authority, order, power of attorney, guarantee, mortgage, transfer, conveyance or other assurance, charge, bill of sale, lien, bill of exchange, bank draft, bank cheque, letter of credit and security–

- (a) to which the Ex-servicemen’s Credit Board or the Native Loans Board is a party; or
- (b) that was given to or in favour of the Ex-servicemen’s Credit Board or the Native Loans Board; or
- (c) in which a reference is made to the Ex-servicemen’s Credit Board or the Native Loans Board; or
- (d) under which any money is or may become payable, or any other property is to be or may become liable to be transferred, conveyed or assigned to or by the Ex-servicemen’s Credit Board or the Native Loans Board,

and that is subsisting on the prescribed date;

“**the prescribed date**”–

- (a) in relation to the Ex-servicemen’s Credit Board–means 1 January 1969 (being the date of commencement of the pre-Independence *Ex-servicemen’s Credit Act* 1968); or
- (b) in relation to the Native Loans Board–means 3 July 1969 (being the date of commencement of the *Papua and New Guinea Development Bank (Native Loans Fund) Act* 1969);

¹⁰⁴“**the take-over date**”, in relation to the Native Loans Fund, means 1 April 1969 (being the date fixed under Section 28D of the *Papua and New Guinea Development Bank Act* 1965 as the date of the transfer of the Native Loans Fund scheme to the successor company).

¹⁰³ Section 58 (definition of “authorized officer”) amended by *Agriculture Bank (Change of Name) Act* 1993 (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act* 1997 (No. 29 of 1997), s2.

¹⁰⁴ Section 58 (definition of “the take-over date”) amended by *Agriculture Bank (Change of Name) Act* 1993 (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act* 1997 (No. 29 of 1997), s2.

60. EFFECT OF INSTRUMENTS TO WHICH PART VIII. APPLIES.

(1)¹⁰⁵ ¹⁰⁶In the operation of any instrument to which this Part applies in relation to acts, matters and things done, entered into or occurring—

- (a) in the case of acts, matters and things affecting the Ex-servicemen's Credit Board—on or after the prescribed date; or
- (b) in the case of acts, matters and things affecting the Native Loans Board—on or after the take-over date,

the instrument has effect as if references in it to that Board were references to the successor company.

(2)¹⁰⁷ ¹⁰⁸The substitution of the successor company for the Ex-servicemen's Credit Board or the Native Loans Board does not, except for the substitution—

- (a) affect any right or obligation of any person; or
- (b) make defective any legal proceedings by or against any person.

(3) An authorized officer may, by writing under his hand, certify that an instrument specified or described in the certificate was—

- (a) in the case of instruments affecting the Ex-servicemen's Credit Board—on the prescribed date; and
- (b) in the case of instruments affecting the Native Loans Board—on the take-over date,

an instrument to which this section applies.

(4) Judicial notice shall be taken of the signature of an authorized officer appearing on a certificate under Subsection (3) and of the fact that the person by whom the certificate purports to have been signed is an authorized officer.

61. EXEMPTION FROM STAMP DUTY.

An instrument or document that an authorized officer certifies to have been made, executed or given by reason of, or for a purpose connected with or arising out of, the operation of—

- (a) this Part; or
- (b) Section 21 of the *Ex-servicemen's Credit Act* 1968; or
- (c) Section 28D or 28E of the *Papua and New Guinea Development Bank Act* 1965,

¹⁰⁵ Section 60(1) amended by *Agriculture Bank (Change of Name) Act* 1993 (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act* 1997 (No. 29 of 1997), s2.

¹⁰⁶ Section 60(1) amended by *Agriculture Bank (Change of Name) Act* 1993 (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act* 1997 (No. 29 of 1997), s2.

¹⁰⁷ Section 60(2) amended by *Agriculture Bank (Change of Name) Act* 1993 (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act* 1997 (No. 29 of 1997), s2.

¹⁰⁸ Section 60(2) amended by *Agriculture Bank (Change of Name) Act* 1993 (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act* 1997 (No. 29 of 1997), s2.

is not liable to stamp duty under any law.

62. TRANSFER OF TITLE.

¹⁰⁹Where any property, or an interest in any property, was vested—

- (a) immediately before the prescribed date—in the Ex-servicemen's Credit Board; or
- (b) immediately before the take-over date—in the Native Loans Board,

the Secretary for Natural Resources, the Registrar of the National Court or the Registrar of Titles, as the case may be, shall, without formal transfer and without fee, enter or register the successor company on any instrument or record in his possession or control evidencing title to the property or interest as the owner or holder, as the case requires, of it.

¹⁰⁹ Section 62 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

PART IX. – MISCELLANEOUS.

63. HEAD OFFICE.

¹¹⁰The head office of the successor company shall be at such place in the country as the Board from time to time decides.

64. ATTORNEY.

¹¹¹The successor company may, by instrument under its seal, appoint a person (whether within or outside the country) to be its attorney and, subject to the instrument, a person so appointed may do any act or exercise or perform any power or function that he is authorized by the instrument to do, exercise or perform.

65. OFFICES, AGENTS, AGENCY FUNCTIONS, ETC.

¹¹²In the exercise of its powers and the performance of its functions, the successor company may—

- (a) establish offices, branches and agencies at such places within the country as it thinks necessary; and
- (b) arrange with a person to act as agent of the Bank in any place within or outside the country; and
- (c) act as the agent of a bank carrying on business within or outside the country.

66. GUARANTEE BY THE STATE.

¹¹³The State is responsible for the payment of all moneys due by the successor company, but this section does not authorize a creditor or other person claiming against the Bank to sue the State in respect of the claim.

67. TAXATION.

¹¹⁴(1)¹¹⁵ ¹¹⁶Subject to Subsection (2), the successor company is not liable to taxation under any law in respect of a transaction, act or dealing of the Bank as such.

¹¹⁰ Section 63 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹¹¹ Section 64 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹¹² Section 65 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹¹³ Section 66 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹¹⁴ Section 67 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹¹⁵ Section 67(1) amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹¹⁶ Section 67(1) amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

(2)^{117 118}The successor company is subject to customs and excise duties (where applicable) under the relevant law.

68. PERIODICAL RETURNS.

¹¹⁹The successor company shall furnish to the Minister such periodical statements as are prescribed.

69. POWER TO IMPROVE PROPERTY AND CARRY ON BUSINESS.

¹²⁰Where the successor company holds any property or business as security for a loan or advance, and the property or business falls into the hands of the Bank, the Bank may maintain, repair or improve the property, or carry on the business, until the Bank, in its discretion, can dispose of the property or business in the best interests of the Bank.

70. EXECUTION OF CONTRACTS.

(1)^{121 122}Contracts on behalf of the successor company may be made, varied or discharged in accordance with this section, and any contract so made is effectual in law, and is binding on the Bank and on all other parties to the contract, and their heirs, successors, assigns, executors and administrators.

(2)^{123 124}A contract that, if made between private persons, would by law be required to be in writing under seal may be made, varied or discharged in the name and on behalf of the successor company in writing under the seal of the Bank.

(3)^{125 126}A contract that, if made between private persons, would by law be required to be in writing and signed by the parties to be charged with it may be made, varied or discharged in the name and on behalf of the successor company in writing signed by a person acting with the express or implied authority of the Bank.

¹¹⁷ Section 67(2) amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹¹⁸ Section 67(2) amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹¹⁹ Section 68 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹²⁰ Section 69 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹²¹ Section 70(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹²² Section 70(1) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹²³ Section 70(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹²⁴ Section 70(2) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹²⁵ Section 70(3) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹²⁶ Section 70(3) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

(4)¹²⁷ ¹²⁸A contract that, if made between private persons, would by law be valid although made by parol only may be made, varied or discharged by parol in the name and on behalf of the successor company by a person acting with the express or implied authority of the Bank.

(5)¹²⁹ ¹³⁰This section does not invalidate a contract executed on behalf of the successor company by a duly appointed attorney of the Bank if the contract would be valid if executed by the attorney on his own behalf.

71. INVESTMENT OF TRUST MONEYS.

A trustee, executor or administrator may invest trust moneys in his hands on deposit with the Agriculture Bank.

72. VALIDITY OF ACTS AND TRANSACTIONS OF THE BANK.

¹³¹The validity of an act or transaction of the successor company shall not be called in question in any legal proceedings on the ground that any provision of this Act has not been complied with.

73. REGULATIONS.

¹³²The 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 or for the conduct of business by the successor company, and in particular prescribing penalties of fines not exceeding—

- (a) K40.00 for offences against the regulations made for the purposes of Part VI; or
- (b) K100.00 for other offences against the regulations.

¹²⁷ Section 70(4) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹²⁸ Section 70(4) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹²⁹ Section 70(5) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹³⁰ Section 70(5) amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹³¹ Section 72 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

¹³² Section 73 amended by *Agriculture Bank (Change of Name) Act 1993* (No. 32 of 1993), s12, Schedule; amended by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s2.

**PART X.¹³³ – TRANSFER OF UNDERTAKING OF THE RURAL
DEVELOPMENT BANK, ETC.**

74. MINISTER MAY APPOINT TRANSFER DATE AND NOMINATE COMPANY.

¹³⁴The Minister may, by notice in the National Gazette—

- (a) appoint a day (hereinafter referred to as “**the transfer date**”); and
- (b) nominate a company or companies incorporated under the *Companies Act* (Chapter 146) (hereinafter referred to as “**the successor company**”), for the purposes of this Part.

75. SHARES IN SUCCESSOR COMPANY ON TRANSFER DATE.

¹³⁵(1) The successor company shall, on the transfer date, be wholly owned by the State.

(2) The shares in the successor company shall be held by the Minister on behalf of the State.

76. TRANSFER OF ASSETS, ETC., OF TRUST TO SUCCESSOR COMPANY ON TRANSFER DATE.

¹³⁶On the transfer date—

- (a) all assets held by, and all obligations and liabilities imposed on, the Rural Development Bank are transferred to the successor company; and
- (b) all contracts and agreements (including contracts of employment) entered into, made with or addressed to the Rural Development Bank are, to the extent they were immediately before the transfer date binding on and enforceable against the Rural Development Bank binding on and of full force and effect against or in favour of the successor company as if the successor company had been a party to them or bound by them or entitled to the benefit of them; and
- (c) all licences held by the Rural Development Bank are transferred to, and deemed to be held by, the successor company for the unexpired period of such licences; and
- (d) any arbitration, action or proceeding pending or existing by, against or in favour of the Rural Development Bank does not abate or discontinue, but may be prosecuted, continued or enforced by, against or in favour of the successor company.

¹³³ Part X inserted by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s1.

¹³⁴ Section 74 inserted by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s1.

¹³⁵ Section 75 inserted by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s1.

¹³⁶ Section 76 inserted by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s1.

77. FORMAL TRANSFER OF LAND, ETC., UNNECESSARY.

¹³⁷Where any asset falling to be transferred under Section 76 is land registered under the *Land Registration Act* (Chapter 191), the Registrar of Titles shall, without formal transfer and without fee, on application by the successor company, enter or register the successor company in the register kept under the Act and, on entry and registration, grant a certificate of title, lease or other instrument evidencing title to the land within that Act.

78. MINISTER EMPOWERED TO SELL SHARES IN SUCCESSOR COMPANY.

¹³⁸The Minister is, on and in accordance with the terms of the direction of the National Executive Council, empowered to sell the shares of the successor company.

79. TAX AND DUTIES.

¹³⁹(1) For the purposes of the *Income Tax Act 1959*, the successor company shall be deemed to have acquired the assets, obligations and liabilities specified in at a value equal to their written down book value in the books of the Rural Development Bank as at the transfer date.

(2) The successor company shall be entitled to tax depreciation and to any other applicable tax deduction in respect of assets, obligations and liabilities specified in Section 76 as if the successor company had owned such assets, rights and liabilities since such assets, rights and liabilities were first acquired by the Rural Development Bank.

(3) Shares issued to the Minister responsible for finance matters on behalf of the State shall be deemed to have been fully paid and issued for valuable consideration other than cash.

(4) The transfer to the successor company of the assets, rights and liabilities specified in the allocation statement shall be exempt from any stamp duty, fee, tax, charges or other duty payable under any Act, including without limitation, the *Land Registration Act* (Chapter 191).

(5) No registration fee shall be payable in respect of the authorized capital of the successor company, and no tax or duty shall be payable on the issue of shares, to the Minister responsible for finance matters on behalf of the State.

¹³⁷ Section 77 inserted by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s1.

¹³⁸ Section 78 inserted by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s1.

¹³⁹ Section 79 inserted by *Rural Development Bank (Amendment) Act 1997* (No. 29 of 1997), s1.

SCHEDULE 1 – OATH AND AFFIRMATION OF OFFICE.

Sec. 14.

¹⁴⁰*Oath.*

“I, . . . , do swear that I will give good and faithful service as a member of the successor company of Papua New Guinea Board.

So help me God!”

Affirmation.

“I, . . . , do solemnly and sincerely affirm and declare that I will give good and faithful service as a member of the successor company of Papua New Guinea Board.”

Office of Legislative Counsel, PNG

¹⁴⁰ Schedule amended by *Agriculture Bank (Change of Name) Act* 1993 (No. 32 of 1993), s12; amended by *Rural Development Bank (Amendment) Act* 1997 (No. 29 of 1997), s2.