

NEW GUINEA LAND TITLES RESTORATION ORDINANCE 1951.⁽¹⁾

No. 10 of 1951.

An Ordinance to provide for the compilation of New Registers and Official Records relating to Land, Mining and Forestry in the Territory of New Guinea in place of those lost or destroyed during the Japanese Invasion of that Territory, and for other purposes.

BE it ordained by the Governor-General in and over the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Papua and New Guinea Act 1949-1950*, as follows:—

PART I.—PRELIMINARY.

- Short title.** 1. This Ordinance may be cited as the *New Guinea Land Titles Restoration Ordinance 1951.*⁽¹⁾
- Commencement.** 2. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice⁽¹⁾ in the *Gazette*.
- Parts.** 3. This Ordinance is divided into Parts, as follows:—
- Part I.—Preliminary (Sections 1-5).
 - Part II.—The Commissioner of Titles (Sections 6-8).
 - Part III.—Establishment of Interests and Compilation of New Registers.
 - Division 1.—General (Sections 9-20).
 - Division 2.—Compilation of New Registers and Issue of New Documents (Sections 21-24).
 - Division 3.—Claims and Provisional Orders (Sections 25-34).
 - Division 4.—Natives' Rights (Sections 35-38).
 - Division 5.—Objections (Sections 39-41).
 - Division 6.—Final Orders (Sections 42-47).
 - Division 7.—Procedure and Evidence (Sections 48-53).
 - Part IV.—Appeals (Sections 54-58).

(1) Particulars of this Ordinance are as follows:—

Date on which made by Gov.-Gen. in Council.	Date on which notified in <i>Cuth. Gaz.</i>	Date on which took effect.
26.4.1951	30.4.1951	1.11.1951 (Papua and N.G. <i>Govt. Gaz.</i> of 30.10.1951)

Part V.—Index of Unregistered Administration Lands
(Section 59).

Part VI.—Miscellaneous (Sections 60-69).

4. In this Ordinance, unless the contrary intention appears— Definitions.
- “Acting Commissioner” means a person appointed under section seven of this Ordinance to act in the office of Commissioner;
- “claim” means a claim made in pursuance of this Ordinance;
- “claimant” means a person who makes a claim;
- “dependent interest” means an interest in land (whether registrable or not)—
- (a) to which a person is entitled at the appointed date but which is dependent on an interest in respect of which another person is entitled to make a claim; or
 - (b) which has been acquired after the appointed date, and is derived directly or indirectly from, through or under an interest in respect of which another person is entitled to make a claim;
- “Deputy Commissioner” means a person appointed under this Ordinance to be a Deputy Commissioner;
- “expropriated” means divested, through the operation of any Ordinance made for the purpose of giving effect to the Treaty of Peace signed at Versailles on the twenty-eighth day of June, One thousand nine hundred and nineteen, or of the Treaty of Peace signed at Saint-Germain-en-Laye on the tenth day of September, One thousand nine hundred and nineteen, from a former owner and vested in the Custodian, and remaining vested in the Custodian or in a person claiming through him;
- “final order” means a final order made in pursuance of this Ordinance;
- “interest” or “interest in land” means a proprietary right, title or estate in or in respect of land, whether corporeal or incorporeal, and whether legal or equitable, and includes a right appurtenant or appendant to any such right, title or estate, and an interest under a law of the Territory of New Guinea relating to mining or forestry, but does not include native customary rights;
- “land” means land in the Territory of New Guinea;
- “lost document” means an old document which has been lost or destroyed;

PART A : LAND—

“lost register” means—

- (a) the Register Book kept under the *Lands Registration Ordinance 1924-1939*⁽²⁾;
- (b) the Register of Administration Leases kept under that Ordinance; or
- (c) a register which is declared, in pursuance of this Ordinance, to have been lost;

“native customary rights” or “customary rights” means rights of a proprietary or possessory kind belonging to a native or native community in relation to land which arise from and are regulated by native custom;

“native land” means land which is owned or possessed by a native or native community by virtue of native customary rights;

“new document” means a document issued in pursuance of this Ordinance;

“new register” means a register compiled and kept, in pursuance of this Ordinance, in place of a lost register;

“objection” means an objection made in pursuance of this Ordinance;

“old document” means a document or entry (including an entry in the Land Register) evidencing or relating to title to an interest in land, issued under, or capable of conferring or evidencing an interest in land under, a law of the Territory of New Guinea, and issued or made on or before the eleventh day of February, One thousand nine hundred and forty-two, but does not include a document or entry which itself formed part of a lost register;

“person” includes the Administration, the Director and the Custodian;

“provisional order” means a provisional order made in pursuance of this Ordinance;

“register” means a register or other official record of the Territory of New Guinea established and maintained or required to be maintained under a law of that Territory relating to land, mining or forestry;

“the appointed date” means such date, not being earlier than the date of commencement of this Ordinance, as the Administrator, by notice in the *Gazette*,⁽³⁾ declares to be the appointed date for the purposes of this Ordinance;

“the Assurance Fund” means the Assurance Fund established under the *Lands Registration Ordinance 1924-1950*⁽²⁾ of the Territory of New Guinea;

(2) Now the *Lands Registration Ordinance 1924-1951*. The *Lands Registration Ordinance 1924-1939* is printed in *The Laws of the Territory of New Guinea 1921-1945 (Annotated)*, Vol. III, on pp. 2891-2985; as to subsequent amendments see the Supplementary Table printed in Part C of Volume II.

(3) No notice has been published in Papua and N.G. *Govt. Gaz.* before 1.1.1952.

“the Commissioner” means the Commissioner of Titles appointed in pursuance of this Ordinance, and includes an Acting Commissioner and a Deputy Commissioner;

“the Custodian” means the Custodian of Expropriated Property appointed in pursuance of Part II. of the Treaty of Peace Regulations made under the *Treaty of Peace (Germany) Act 1919-1920* of the Commonwealth, and includes a person for the time being performing the duties and functions of the Custodian;

“the Director” means the Director of District Services and Native Affairs, and includes a person for the time being performing the duties and functions of the Director;

“the Land Register” means the Land Register (*Grundbuch*) formerly in use and kept under the laws in force in the Territory of New Guinea before the ninth day of May, One thousand nine hundred and twenty-one;

“the Registrar” means, in respect of any matter or thing under this Ordinance—

(a) relating to the *Lands Registration Ordinance 1924-1950*⁽²⁾ of the Territory of New Guinea—the Registrar of Titles of the Territory;

(b) relating to the *Land Ordinance 1922-1950*,⁽⁴⁾ the *Mining Ordinance 1928-1947*⁽⁵⁾ and the *Miners' Homestead Leases Ordinance 1928-1938*⁽⁶⁾ of the Territory of New Guinea—the Secretary for Lands, Surveys and Mines of the Territory; and

(c) relating to the *Timber Ordinance 1922-1931*⁽⁷⁾ or the *Forestry Ordinance 1936-1937*⁽⁸⁾ of the Territory of New Guinea—the Director of Forests of the Territory,

and includes a person for the time being performing the duties and functions of those respective officers;

“the Territory” means the Territory of Papua and New Guinea;

“this Ordinance” includes the regulations made under this Ordinance.

(2) See footnote (2) printed in this Volume on p. 620.

(4) The *Land Ordinance 1922-1941* is printed in *The Laws of the Territory of New Guinea 1921-1945 (Annotated)*, Vol. III., on pp. 2649-2716; as to subsequent amendments see the Supplementary Table printed in Part C of Volume II.

(5) The *Mining Ordinance 1928-1940* is printed in *The Laws of the Territory of New Guinea 1921-1945 (Annotated)*, Vol. III., on pp. 3221-3292; as to subsequent amendments see the footnotes to that Ordinance.

(6) Printed in *The Laws of the Territory of New Guinea 1921-1945 (Annotated)*, Vol. III., on pp. 3479-3496.

(7) Repealed and replaced by the *Forestry Ordinance 1936-1937*, printed in *The Laws of the Territory of New Guinea 1921-1945 (Annotated)*, Vol. II., on pp. 2167-2178.

(8) Now the *Forestry Ordinance 1936-1951*. The *Forestry Ordinance 1936-1937* is printed in *The Laws of the Territory of New Guinea 1921-1945 (Annotated)*, Vol. II., on pp. 2167-2178; as to subsequent amendments see the Supplementary Table printed in Part C of Volume II.

PART A: LAND—

Ordinance not to affect certain interests.

5. Nothing in this Ordinance affects the validity or requires the establishment under this Ordinance of—

- (a) an interest granted by the Administration after the twenty-ninth day of October, One thousand nine hundred and forty-five, or an interest dependent on or derived from, through or under any such interest;
- (b) an interest registered or entered in a register opened and kept in pursuance of the National Security (External Territories) Regulations⁽⁹⁾ of the Commonwealth or the *Lost Registers Ordinance 1950*⁽¹⁰⁾; or
- (c) an interest in respect of which a substituted Administration grant, certificate of title or Administration lease has been prepared and bound up in the Register Book or the Register of Administration Leases in pursuance of section seventy-three or eighty-five of the *Lands Registration Ordinance 1924-1950*⁽²⁾ of the Territory of New Guinea, or an interest dependent on or derived from, through or under any such interest.

PART II.—THE COMMISSIONER OF TITLES.

Commissioner of Titles.

6.—(1.) For the purposes of this Ordinance there shall be a Commissioner of Titles, who shall be appointed by the Governor-General.

(2.) A person shall not be appointed as Commissioner unless he is, or is qualified to be appointed, a judge of the Supreme Court.

(3.) The Commissioner shall be appointed for such period and at such salary as is fixed by the Governor-General.

(4.) The Commissioner has the same protection and immunities as a judge of the Supreme Court.

Acting Commissioner.

7.—(1.) The Administrator in Council may appoint a person to act in the office of Commissioner during any vacancy in the office of Commissioner, or when the Commissioner is absent on leave or from the Territory or unable by reason of illness or incapacity to perform his duties.

(2.) A person appointed to act in the office of Commissioner in pursuance of this section has and may exercise and perform all the powers and functions, and has the same protection and immunities, as the Commissioner.

Commissioner to make inquiries and hold hearings.

8. The Commissioner shall, within the Territory and (to the extent prescribed by regulations under the *Papua and New Guinea Act 1949-1950*⁽¹¹⁾) within the Commonwealth and any Territory or under the authority of the Commonwealth, make or cause to be made such inquiries and hold such hearings as he deems necessary or convenient for the purposes of this Ordinance.

(2) See footnote (2) printed in this volume on p. 620.

(9) Reprinted in *The Laws of the Territory of Papua-New Guinea 1945-1949 (Annotated)*, on pp. 44-66.

(10) Printed in this Volume on pp. 716-717.

(11) Printed in this Volume on pp. 52-76.

PART III.—ESTABLISHMENT OF INTERESTS AND COMPILATION OF
NEW REGISTERS.

Division 1.—General.

9. A person claiming to have been entitled as at the appointed date—

(a) to an interest in land; and

(b) to be registered or entered in a lost register as the owner of or the person entitled to that interest (whether or not he was, before the loss or destruction of that register, so registered or entered),

may make a claim in respect of that interest.

Claims by persons registered or entitled to be registered in lost registers.

10. For the purposes of the last preceding section, a person shall be deemed to have been entitled to be registered or entered in a lost register as the owner of or the person entitled to an interest in land if he would have been so entitled, but for—

Informality or misdescription in document not to affect right to claim.

- (a) the destruction or loss of any register (including the Land Register), record, certificate or document;
- (b) the informal nature of a document, or a misdescription in a document; or
- (c) the failure of some other person to execute a document which the first-mentioned person is in equity entitled to have executed.

11.—(1.) Subject to this section, a person claiming to be, or at the appointed date to have been, entitled to a dependent interest may, before a final order is made in respect of the land the subject of that interest, make a claim to establish the interest as at the appointed date on which his dependent interest depends, or from, through or under which it is directly or indirectly derived.

Claims in certain circumstances by owners of dependent interests.

(2.) A person may make a claim in pursuance of this section only if—

- (a) the person entitled to make a claim under section nine of this Ordinance in respect of the interest on which the dependent interest depends or from, through or under which it is directly or indirectly derived—
- (i) has died before the appointed date, or after that date but without having made a claim in respect of that interest;
- (ii) has not, on or before the date fixed as the date by which claims must be made, made a claim in respect of that interest; or
- (iii) has made a claim in respect of that interest, but, in the opinion of the Commissioner, has failed to prosecute his claim diligently and in good faith; or

(b) he has, in pursuance of the next succeeding section, given notice of the dependent interest, and has applied for and been granted by the Commissioner permission to make the claim.

(3.) A person who makes a claim in pursuance of this section shall declare, in a statutory declaration accompanying the claim, that he is or, at the appointed date, was, entitled to the dependent interest specified in the claim.

Notice of ownership or dependent interests.

12.—(1.) A person claiming to be, or at the appointed date to have been, entitled to a dependent interest may give notice in the prescribed form to the Commissioner of that dependent interest.

(2.) Where, before or after a notice is given in pursuance of the last preceding sub-section, a claim or objection is made in respect of the interest upon which the dependent interest depends or from, through or under which it is directly or indirectly derived, the Commissioner shall cause a copy of the notice to be served by registered post upon—

(a) the claimant or objector; and

(b) such other persons as the Commissioner directs.

(3.) The Commissioner may, by notice in writing served by registered post, require a person, who has given notice in pursuance of sub-section (1.) of this section, to furnish to him, on or before a date specified in the notice and to verify in the prescribed manner, such further particulars relating to that dependent interest (including any dealing affecting it) as the Commissioner considers necessary.

(4.) A person who gives notice to the Commissioner in pursuance of this section and complies with any notice given to him under the last preceding sub-section—

(a) shall be entitled to receive a copy of all notices issued and orders made by the Commissioner or the Registrar; and

(b) may, with the permission of the Commissioner, attend and be heard at any hearing or proceedings,

relating to any claim, objection, reference or application in respect of the interest upon which his interest depends or from, through or under which it is derived.

(5.) The Commissioner may issue to a person who gives notice in pursuance of sub-section (1.) of this section such directions as he thinks necessary for the purposes of this Ordinance.

Director to take steps to establish interests vested in him on behalf of natives.

13. Where the Director is entitled to make a claim in respect of an interest in land vested in him for the benefit or on behalf of, or as trustee for, a native or native community, he shall take all proper steps to establish, in accordance with the procedure provided by this Ordinance, that the interest was so vested in him.

14. Notwithstanding the expiration of any time prescribed by this Ordinance within which claims, objections or applications are to be made or notices given, the Administration may make a claim, objection or application, or give a notice, in respect of any interest, at any time before a final order has been made in respect of the land concerned.

Application of Ordinance to Administration.

15. The Administration shall, in any proceedings in pursuance of this Ordinance in the course of which there arises a question whether any land is or was native land, assist the Commissioner in his investigation and determination of that question, and, in particular, shall make available to him all documents and information relating thereto and available to the Administration.

Administration to assist in relation to native rights.

16.—(1.) Subject to this section, the Commissioner shall, before making a final order, investigate, hear and determine all claims, objections, references and applications made in pursuance of this Ordinance in respect of the land the subject of the order.

Claims and objections, &c., to be investigated and determined together.

(2.) Where no objection is made to a provisional order, the Commissioner may make a final order substantially in terms of the provisional order without a hearing.

(3.) The Commissioner may, if he thinks fit, include in the one provisional or final order declarations and directions concerning interests in more than one parcel of land.

17.—(1.) In a provisional or final order, the Registrar or the Commissioner, as the case may be, shall declare—

Matters to be included in provisional and final orders.

(a) whether it is established that a person was, at the appointed date, entitled to an interest in the land the subject of the order and to be registered or entered in a lost register as the owner of or the person entitled to that interest;

(b) the boundaries of the land the subject of the interest;

(c) the nature and extent of—

(i) the interest established in that land; and

(ii) the native customary rights (if any) which, at the appointed date, were retained by a native or native community in respect of that land; and

(d) any other matter which the Commissioner thinks necessary.

(2.) If the provisional or final order declares that a person was entitled to an interest and to be registered or entered in a lost register as the owner of or the person entitled to that interest, the Commissioner or the Registrar, as the case may be, shall include in the order, to the extent appropriate, directions that—

(a) an appropriate entry or notification be made by the Registrar in a new register or on a new document;

PART A : LAND—

- (b) a new document be issued by the Registrar to the person named in the direction;
- (c) a caveat be lodged by the Registrar;
- (d) the Registrar or a person specified in the order take such action as is specified in the order for the purpose of providing a person with records, proof and evidence of the interest to which the order declares that person to have been entitled;
- (e) an entry or notification, or a document directed by the order to be made, lodged or issued, be in such form and in such terms as the order specifies;
- (f) any action directed by the order to be taken be taken in such manner and form, and at such time, as the order directs; and
- (g) any other necessary action be taken for the purpose of giving effect to the order.

(3.) Where the Commissioner or the Registrar, in a provisional or final order, directs an entry or notification to be made in a register or a document to be issued, he may, in the order, direct that the entry, notification or document is to bear a date specified by him, and an entry, notification or document bearing a date as so directed in a final order shall have effect as if it had been made or executed on that date.

(4.) The declarations and directions in a provisional order shall be provisional only and shall not have effect or be carried out unless and until embodied in a final order, but the declarations and directions in a final order, whether in the terms of the provisional order or not, shall have effect and be carried out as provided in Division 6 of this Part.

(5.) Where a provisional order is based on a duplicate of an Administration grant, certificate of title or Administration lease which duplicate has been lodged with the Commissioner or the Registrar, the Commissioner or the Registrar, as the case may be, shall certify in writing to the Director accordingly.

Discovery of
old documents,
&c., after
final order.

18.—(1.) A person who, having made a claim, discovers, after the making of a final order in respect of the land the subject of the claim, an old document or any other evidence which is in conflict with or is inconsistent with the final order, may apply to the Supreme Court for an order under this section.

(2.) If the Supreme Court is satisfied—

- (a) that the old document or other evidence was not discovered by the applicant until after the making of the final order and the failure to discover it was not due to the fault or neglect of the applicant or of any agent of the applicant; and

- (b) that if the old document or other evidence had been available to the Commissioner before he made the final order, the applicant would have been able to establish his interest, or, in the case of a dependent interest, the interest on which his dependent interest depends or from, through or under which it is directly or indirectly derived,

the Court may make an order for the payment to the applicant out of the Assurance Fund of such sum as the Court thinks fit as compensation for the interest of which he has been deprived by or in consequence of the final order.

(3.) Nothing in this section affects the validity and effect of a final order.

19.—(1.) Subject to this section, where, as the result of fraud, a person is deprived of an interest by or in consequence of a final order, that person or his legal personal representative has a right of action in the Supreme Court for the recovery of damages from any person who was a party to the fraud or who derived a benefit as a result of the fraud.

Person fraudulently deprived of interest may bring action for damages.

(2.) The amount of the damages recoverable is—

(a) in an action against a party to the fraud—the loss resulting from the fraud; or

(b) in an action against a person not a party to the fraud—so much of that loss as does not exceed the value of the benefit derived by that person as a result of the fraud,

but so that the total of the damages recovered against all persons shall not exceed that loss.

(3.) Nothing in this section renders a person liable to damages by reason of his acquiring an interest in land *bona fide* and for valuable consideration.

(4.) A person may take proceedings both under the last preceding section for compensation and under this section for damages, but shall not be entitled to recover both compensation and damages.

(5.) If a person against whom an action for damages may be brought under this section is dead, has been adjudged bankrupt or cannot, after reasonable search, be found within the Territory, the action may be brought against the Registrar as nominal defendant for the purpose of recovering the damages and costs out of the Assurance Fund.

20.—(1.) Where—

- (a) damages are awarded under the last preceding section but the full amount of the damages and costs awarded cannot be recovered from the judgment debtor; or

Payments out of, and actions by, the Assurance Fund.

PART A : LAND—

(b) the Supreme Court has made an order under this Ordinance for payment of compensation, damages or costs out of the Assurance Fund, the Treasurer and Director of Finance of the Territory shall, upon receipt of a certificate to that effect given by a judge of the Supreme Court, and of a warrant under the hand of the Administrator, pay the amount of the compensation, or of the damages and costs or the unrecovered balance thereof, as the case may be, and shall charge the amount to the account of the Assurance Fund.

(2.) Where an amount is paid out of the Assurance Fund in pursuance of the last preceding sub-section to a person who was deprived of his interest by fraud, the Registrar may proceed under sub-section (1.) of the last preceding section in the place of that person, whether or not any proceedings under sub-section (1.) or sub-section (5.) of the last preceding section had been taken by that person, and the amount of any damages recovered as a result of any such proceedings shall be paid into the Assurance Fund.

Division 2.—Compilation of New Registers and Issue of New Documents.

Declaration of
lost registers
and compilation
of new registers.

21.—(1.) The Administrator may, by notice⁽¹²⁾ in the *Gazette*, declare a register (other than the Register Book and the Register of Administration Leases under the *Lands Registration Ordinance 1924-1939*⁽²⁾ of the Territory of New Guinea) to have been lost.

(2.) The Registrar shall, in place of each lost register, compile and keep a new register.

(3.) The Registrar shall make such entries in the new register as are necessary to give effect to the declarations and directions contained in final orders.

(4.) The Register Book and the Register of Administration Leases under the *Lands Registration Ordinance 1924-1939*⁽²⁾ of the Territory of New Guinea, and any other register which is declared, in pursuance of this Ordinance, to have been lost, to the extent to which they have been reconstituted under—

(a) the National Security (External Territories) Regulations of the Commonwealth⁽⁹⁾;

(b) the *Lost Registers Ordinance 1950*⁽¹⁰⁾ of the Territory;
or

(c) sections seventy-three and eighty-five of the *Lands Registration Ordinance 1924-1950*⁽²⁾ of the Territory of New Guinea,

shall, by force of this section, be incorporated in and form part of the corresponding new registers compiled and kept under this Ordinance.

(2) See footnote (2) printed in this Volume on p. 620.

(9) See footnote (9) printed in this Volume on p. 622.

(10) See footnote (10) printed in this Volume on p. 622.

(12) No notice has been published in Papua and N.G. *Govt. Gaz.* before 1.1.1952.

(5.) A new register compiled and kept under this Ordinance shall for all purposes be deemed to be the lost register which it replaces.

(6.) Nothing in this Ordinance authorizes the registration in a new register of an interest of a class which would not have been registrable in the corresponding lost register.

22.—(1.) The Registrar shall, in relation to an entry or notification made in a new register in pursuance of a final order, issue such documents as are specified in the final order or are permitted by this or any other Ordinance to be issued as evidence of the ownership, nature and extent of the interest, and of the boundaries of the land, to which that entry or notification relates. Issue of new documents.

(2.) A new document issued in consequence of a final order in place of a lost document shall be deemed, except for the purposes of sections eighteen and nineteen of this Ordinance, to be the document which it replaces.

23.—(1.) A claimant or objector, or a person entitled to a dependent interest who gives notice to the Commissioner in pursuance of section twelve of this Ordinance, who has in his possession an old document relating to an interest in the subject land, shall, on or before the day on which he makes his claim or objection, or gives that notice, as the case may be, or such other date as the Commissioner directs, surrender that document to the Commissioner. Surrender of documents.

(2.) Where it appears to the Commissioner that a person holds or has held an old document in respect of an interest which is the subject of a claim or objection, the Commissioner may require that person, within the time stated in the requirement, to surrender the old document to the Commissioner or furnish evidence satisfactory to the Commissioner that the old document has been lost or destroyed, or is not in his possession or control.

(3.) The surrender, in pursuance of this section, of an old document does not in any way affect, during the period for which it remains surrendered, the rights (if any) to which the person surrendering the document was entitled, by reason of his possession of that document, immediately before its surrender.

24.—(1.) If, in the opinion of the Commissioner, an old document surrendered to him contains correct particulars of the ownership, nature and extent, as at the appointed date, of the interests referred to therein, and of the boundaries of the land the subject of those interests, he may, in a final order, direct that the Registrar shall place on it an endorsement as to its correctness and continuing validity, and the Registrar shall make the endorsement accordingly. Endorsement and re-issue of old documents.

PART A : LAND—

(2.) If, in the opinion of the Commissioner, an old document so surrendered does not contain correct particulars of the matters specified in the last preceding sub-section, he may, in a final order, direct that the Registrar shall vary the particulars in the manner specified in that final order, and the Registrar shall vary the particulars accordingly, and place on the document an endorsement as to its correctness and validity as so varied.

(3.) After endorsement in pursuance of this section, an old document may be issued by the Registrar as a new document.

Division 3.—Claims and Provisional Orders.

Publication of notices requiring claims.

25.—(1.) The Administrator shall cause to be published four times within six months after the appointed date—

(a) in each State and Territory of or under the authority of the Commonwealth, in a newspaper (if any) published and circulating in that State or Territory;

(b) in the *Commonwealth Gazette*; and

(c) in the *Gazette*,

a notice in the prescribed form specifying a date not later than which claims must be made.

(2.) The notice shall be published once during each of four consecutive months, and not later than the fifteenth day of the month.

(3.) The date to be specified in the notice shall be determined by the Administrator and shall be a date not less than nine months after the appointed date.

(4.) Notwithstanding anything contained in this Ordinance, the Commissioner may, in his opinion it is just and equitable so to do, at any time before a final order is made in respect of the land the subject of the claim, grant permission to a person to make a claim not later than a date specified by him, and shall grant such permission in any case in which the Administration, the Director, the Custodian or a person entitled to a dependent interest who makes a claim in pursuance of paragraph (a) of sub-section (2.) of section eleven of this Ordinance is the claimant.

Manner of making claims.

26. A claim shall be made by—

(a) completing the prescribed form in the prescribed manner; and

(b) forwarding it by registered post to the Commissioner in time to reach him not later than the date specified under sub-section (1.) of the last preceding section or under sub-section (4.) of that section, as the case may be.

Register of Claims and Objections.

27.—(1.) The Commissioner shall cause to be kept a register (to be called the Register of Claims and Objections) in such form and containing such particulars, as are prescribed.

(2.) A person may, upon payment of the prescribed fee, search the Register of Claims and Objections, and may, upon payment of the prescribed fee, obtain a certified copy of any claim, objection, application, reference, certificate or notice.

28.—(1.) The Commissioner may, before or after a provisional order is made, by notice in writing served by registered post, require a claimant to furnish to him, on or before a date specified in that notice, such further particulars relating to his claim as the Commissioner considers necessary. Further particulars may be required in respect of claims.

(2.) Any further particulars so furnished shall—

- (a) be verified as required by the notice; and
- (b) when received, be deemed to be incorporated in, and to form part of, the claim to which they relate.

29. The Commissioner may, at any time before a final order is made in respect of the land the subject of the claim, and subject to such conditions (including the giving of notice) as the Commissioner thinks fit, permit a claimant to amend his claim. Amendment of claims.

30. The Commissioner shall, on receipt of a claim or any document or information relating to a claim, forward it to the Registrar, unless the Registrar has already, in respect of the land to which the claim relates, made a provisional order, or returned the claim to the Commissioner in pursuance of sub-section (1.) of section thirty-two of this Ordinance. Commissioner to forward claims, &c., to Registrar.

31.—(1.) The Registrar may, after the date specified in the notice published under section twenty-five of this Ordinance, make a provisional order (without a hearing) if— Provisional orders by Registrar.

- (a) the order relates only to one parcel of land;
- (b) the interests the subjects of claims made in respect of that land are all claimed to have been, on the eleventh day of February, One thousand nine hundred and forty-two, registered, notified or entered in a lost register which is to be replaced by a new register compiled and kept by the Registrar who makes the provisional order;
- (c) in the opinion of the Registrar, each claim made in respect of that land—
 - (i) is fully supported by old documents, which, without the aid of any other evidence, purport to vest, or to evidence the vesting of, the interest claimed in the person who is claimed to have been, on the appointed date, entitled to it, and purport to define the boundaries of the land the subject of that interest;

PART A : LAND—

- (ii) is not in conflict with or inconsistent with any other claim; and
 - (iii) is not open to doubt arising from any information in his possession; and
- (d) in respect of each claim, the claimant makes a statutory declaration that he knows of no interest which, at the appointed date, was in conflict with or inconsistent with the interest the subject of his claim.

(2.) The Registrar shall forthwith forward to the Commissioner a copy of each provisional order made in pursuance of this section, together with all documents and information in his possession relating to that order.

Registrar to assist Commissioner in respect of claims, &c.

32.—(1.) As soon as practicable after the date specified in the notice published under section twenty-five of this Ordinance, the Registrar shall, in respect of each claim (other than a claim which relates to land the subject of a provisional order which he has made or intends to make in pursuance of the last preceding section) return to the Commissioner the claim and forward to him any documents and information in his possession which relate to the claim.

(2.) The Registrar shall, from time to time after he has taken action in pursuance of sub-section (2.) of the last preceding section or sub-section (1.) of this section, and before the Commissioner makes a final order in respect of the subject land, forward to the Commissioner any documents or information in his possession or control relating to that land and which may be of assistance to the Commissioner.

Provisional order by Commissioner.

33. Except where a provisional order has already been made by the Registrar, the Commissioner shall, after considering the claims, documents and information received from the Registrar in respect of any land, and any other evidence which may be available to him, but without being bound to hear any person, make a provisional order in respect thereof.

Publication of notices concerning provisional orders.

34.—(1.) The Commissioner shall each month cause to be published in the *Commonwealth Gazette* and in the *Gazette* a notice in the prescribed form containing a list of all provisional orders made during the preceding month and specifying a date (being a date not less than three months after the date on which the notice is published in the *Commonwealth Gazette*) as the date by which objections to the provisional orders may be lodged.

(2.) Within fourteen days after the date of publication in the *Commonwealth Gazette* of a notice in pursuance of the last

preceding sub-section, the Commissioner shall cause a copy of the relevant portion of the notice to be served by registered post on the following persons:—

- (a) any person named in the provisional order as the owner of or the person entitled to an interest in land the subject of the order;
- (b) any person who has made a claim or objection in respect of an interest in land the subject of the order;
- (c) where land the subject of the order, or any right affecting that land, is expropriated, the Custodian;
- (d) the Director;
- (e) the occupier of land the subject of the order;
- (f) the occupier (not being a native or a native community) of, and the owner of any interest in, any contiguous land, unless those persons cannot, after reasonable inquiry, be ascertained;
- (g) any person who, by writing under his hand, has requested the Commissioner to give him notice of the provisional and final orders relating to land the subject of the order, and has paid the prescribed fee;
- (h) any person who, in respect of land the subject of the order, has given notice to the Commissioner in pursuance of section twelve of this Ordinance; and
- (i) any other person who, in the opinion of the Commissioner, ought to be notified.

Division 4.—Natives' Rights.

35. Where the Director is served with a copy of the relevant portion of a notice in pursuance of the last preceding section, he shall, in respect of the provisional order the subject of that portion of the notice, unless he has received a certificate under sub-section (5.) of section seventeen of this Ordinance—

Director to furnish certificate or refer question to Commissioner.

- (a) forthwith cause to be posted up, at the office of the District Commissioner in the District in which the land the subject of the provisional order is situated, a notice stating that he has been so served, and that any native or native community asserting that he or it was, at the appointed date, entitled to native customary rights in respect of that land may, within two months after the date on which the notice is posted up, lodge with him particulars of those customary rights; and
- (b) cause to be made any inquiries which he thinks necessary.

PART A : LAND—

Reference of questions of native rights to Commissioner.

36. As soon as practicable after the expiration of the period of two months specified in the notice so posted up, the Director shall—

- (a) refer to the Commissioner the question of native customary rights to which a native or native community appears to the Director to have been, or asserts that he or it was, at the appointed date, entitled in respect of the subject land; or
- (b) certify to the Commissioner by writing under his hand that, to the best of his knowledge and belief, no native or native community was, or asserts that he or it was, at the appointed date, entitled to any customary rights in respect of the subject land.

Commissioner not to make final order until reference or certificate furnished.

37. Except where a certificate has been forwarded to the Director in pursuance of sub-section (5.) of section seventeen of this Ordinance, the Commissioner shall not make a final order in respect of any land until a question of native customary rights has been referred to him or a certificate has been furnished to him by the Director in pursuance of the last preceding section.

Director to represent natives.

38. At any hearing or proceedings under this Ordinance involving questions as to the ownership by a native or native community of any native customary rights, the Director shall present the case for the native or native community, and shall arrange for such legal or other representation of the native or native community as he considers necessary.

Division 5.—Objections.

Objections.

39.—(1.) An objection to the making of a final order in accordance with the terms of a provisional order listed in a notice published under section thirty-four of this Ordinance may be made by any person within the time specified in the notice and in the manner provided by this section.

(2.) An objection to the making of a final order shall be made by—

- (a) completing the prescribed form in the prescribed manner; and
- (b) forwarding it by registered post addressed to the Commissioner in time to reach him within the time specified in the notice referred to in the last preceding sub-section.

(3.) Notwithstanding the expiration of the time specified in the notice referred to in sub-section (1.) of this section, the Commissioner may, if in his opinion it is just and equitable so to do, at any time before a final order is made in respect of the land the subject of the objection, grant permission to a person to make an

objection not later than a date specified by him, and shall grant such permission in any case in which the Administration, the Director or the Custodian is the objector.

(4.) The Commissioner may, at any time, subject to such conditions (including the giving of notice) as the Commissioner thinks fit, permit an objector to amend his objection.

40. If it appears to the Commissioner that—

- (a) the objector has not previously made a claim in respect of the interest the subject of the objection; and
- (b) the objection should have been made in the form of a claim, or might more properly be dealt with as a claim,

Commissioner may direct objector to make claim.

he may at any time before a final order is made in respect of the land the subject of the objection, notwithstanding anything contained in section twenty-six of this Ordinance, direct the objector to withdraw the objection and to make a claim, and the claim may be made accordingly.

41.—(1.) The Commissioner may, by notice in writing served by registered post, require an objector to furnish to him, on or before a date specified in that notice, such further particulars relating to his objection as the Commissioner considers necessary.

Further particulars may be required in respect of objections.

(2.) Any further particulars so furnished shall—

- (a) be verified as required by the notice; and
- (b) when received, be deemed to be incorporated in, and to form part of, the objection to which they relate.

Division 6.—Final Orders.

42.—(1.) Subject to section thirty-seven of this Ordinance, the Commissioner shall, after the date specified in the notice published under section thirty-four of this Ordinance, proceed to investigate, hear and determine the claims, objections and references which are the subject of, or relate to, the provisional orders listed in the notice, and to make final orders in respect thereof, either in the same terms as the provisional orders, or in such other terms as he thinks just.

Hearings and final orders.

(2.) If, in respect of a provisional order, no objection is made in accordance with the provisions of this Ordinance on or before the date specified in the notice published under section thirty-four of this Ordinance relating to that order, the Commissioner may, without a hearing, make a final order in the terms of that provisional order or in such other terms as the Commissioner thinks just.

PART A : LAND—

(3.) The Commissioner may, if it appears to him convenient and just so to do—

- (a) make more than one final order in respect of the claims, objections and references which are the subject of or relate to one provisional order; or
- (b) make one final order in respect of any or all of the claims, objections and references which are the subject of or relate to two or more provisional orders.

(4.) A hearing under this section shall be public, and the Commissioner shall decide the matters in issue judicially.

Determination of boundaries in cases of doubt.

43.—(1.) If the Commissioner, in investigating the boundaries of any land the subject of a claim, is unable to satisfy himself as to the precise location of the boundaries, he shall endeavour to effect a settlement of the boundaries by consent of all persons affected.

(2.) Whether any such consent is obtained or not, the Commissioner may, in a final order, define the boundaries in such manner as will, in his opinion, effect substantial justice.

Reference to Supreme Court of questions of law.

44.—(1.) In the course of his inquiries into any claim, application, reference or objection, the Commissioner may, and upon the order of a judge of the Supreme Court shall, temporarily refrain from making a final order and state a case on a question (other than a question of fact only) for determination by the Supreme Court.

(2.) Subject to rules made by the Supreme Court, the proceedings in or in connexion with a case stated in pursuance of this section shall be as directed by the Supreme Court.

(3.) The Commissioner shall incorporate in his final order such declarations and directions as are necessary to give effect to the determination made by the Supreme Court in pursuance of this section.

Persons interested to be informed of final orders.

45. As soon as practicable after the Commissioner has made a final order, he shall cause to be forwarded by registered post, addressed to the persons specified in paragraphs (a) to (h) (both inclusive) of sub-section (2.) of section thirty-four of this Ordinance, and to any other persons whom he knows to be affected by the final order—

- (a) a copy of the final order; and
- (b) a notice that a person aggrieved by the final order may, within the time and in the manner provided in Part IV. of this Ordinance, appeal to the Supreme Court against that order or any part thereof.

46. The Commissioner shall each month cause to be published in the *Commonwealth Gazette* and in the *Gazette* a notice in the prescribed form containing a list of the final orders made by him during the preceding month. Publication of notices listing all final orders.

47.—(1.) Subject to this section and to any stay of execution ordered by a court, the Registrar, and any other person who is directed in the final order so to do, shall— Final orders to be implemented.

- (a) after the expiration of the time limited for the institution of an appeal to the Supreme Court, if no notice of appeal under this Ordinance is filed in the Registry of the Supreme Court;
- (b) after the expiration of the time limited for the lodging of an application for leave to appeal to the High Court against an order made, on appeal, by the Supreme Court, if no application for leave to appeal to the High Court under this Ordinance is lodged; or
- (c) after the High Court has disposed of an application for leave to appeal, or, if leave to appeal is granted, of the appeal, against an order made, on appeal, by the Supreme Court,

give effect to and comply with the declarations and directions contained in the final order.

(2.) Where a person directed by a final order to execute a deed or other document, or do some other act, has neglected to do so for a period of twenty-eight days after becoming liable to comply with the direction, the Commissioner may appoint the Registrar or some other person to execute that deed or document or to do that act, in place of the person so directed, and to do all acts necessary to give validity and operation thereto.

(3.) The execution of a deed or document or the doing of an act by a person in pursuance of an appointment under the last preceding sub-section shall in all respects have the same force and validity as if it had been done by the person directed by the final order to execute the deed or document or to do the act.

(4.) In this section, "final order" includes a final order as varied on appeal.

Division 7.—Procedure and Evidence.

48.—(1.) If the Commissioner is of opinion that a person is able to give material evidence, and will not voluntarily appear for the purpose of being examined as a witness at any hearing or proceedings held in pursuance of this Ordinance, the Commissioner shall issue a summons directed to that person, requiring him to be and appear at a time and place specified in the summons before Power of Commissioner to summon witnesses.

PART A : LAND—

the Commissioner, to testify what he knows concerning the matter of the claim, objection, application or reference the subject of the hearing or proceedings.

(2.) A summons issued in pursuance of the last preceding sub-section shall be served, and proof of service given, in such manner and subject to such conditions as are prescribed.

(3.) A person who has been duly summoned as a witness before the Commissioner, and to whom reasonable expenses of conveyance have been tendered, shall not, without just excuse—

- (a) refuse or fail to attend in obedience to the summons; or
- (b) refuse to take an oath or make an affirmation as a witness when so required by the Commissioner.

Penalty: Fifty pounds.

Examination to be on oath.

49.—(1.) Subject to any law authorizing a solemn declaration to be made in lieu of an oath, a person appearing to give evidence before the Commissioner shall be examined on oath.

(2.) The Commissioner may administer or cause to be administered to a person appearing to give evidence before him an oath or affirmation as a witness.

Power to order witnesses out of hearing.

50. The Commissioner may, if he thinks fit, at any time during any hearing or proceedings, order that all witnesses (other than the parties and the witnesses under examination) go and remain outside and beyond the hearing of the Commissioner until required to give evidence.

Old documents to be *prima facie* evidence.

51. The production of an old document is *prima facie* evidence that a person named therein was at the date indicated in the old document entitled to the interest attributed to him therein.

Technical rules of evidence not to apply.

52.—(1.) Subject to this Ordinance, in the investigation, hearing and determination of claims, applications, references and objections, the Commissioner is not bound to observe strict legal procedure or apply technical rules of evidence, but shall admit and consider such relevant evidence as is available (including hearsay evidence).

(2.) The Commissioner may accept evidence by statutory declaration in the case of a person whose attendance before him the Commissioner considers unnecessary, or whose attendance the Commissioner considers would occasion undue hardship.

Appointment of Deputy Commissioners to determine specific issues.

53.—(1.) The Administrator in Council may appoint a Deputy Commissioner to hear and determine such issues in respect of a particular claim, objection, application or reference as are specified in the instrument of appointment.

(2.) More than one Deputy Commissioner may be appointed and may hold office under this section at the same time.

(3.) In relation to the determination of any issues in pursuance of this section, a Deputy Commissioner shall have and may exercise the same powers and functions, and shall have the same protection and immunities, as the Commissioner.

(4.) The Commissioner may, in making a final order, accept and act upon the determination of an issue by a Deputy Commissioner under this section.

PART IV.—APPEALS.

54.—(1.) A person aggrieved by a final order may, within thirty days after service on him of the copy of the notice specified in section forty-five of this Ordinance, appeal to the Supreme Court against that order, or any part thereof, by—

Appeal to
Supreme Court.

- (a) filing in the Registry of that Court a notice of appeal; and
- (b) subject to section fifty-eight of this Ordinance, serving by registered post a copy of that notice upon the Commissioner and the persons who in the final order are named as entitled to interests in land the subject of the final order.

(2.) Subject to any rules made by the Supreme Court, the proceedings in or in connexion with the appeal shall be as directed by the Supreme Court.

(3.) The Commissioner shall, within fourteen days after service upon him of a copy of the notice of appeal, cause a copy of that notice to be served by registered post upon the following persons:—

- (a) any person who has made a claim or objection in respect of land the subject of the final order;
- (b) any person who has given notice in pursuance of section twelve of this Ordinance in respect of land the subject of the final order; and
- (c) any other person whom the Commissioner considers should receive a copy of the notice of appeal.

(4.) The Supreme Court may at any time, on application or of its own motion, either before or during the hearing of the appeal, order that notice of the appeal shall also be served upon a person whom the court considers should have notice of the appeal, and may postpone or adjourn the hearing for the purpose of enabling that person to be heard on the appeal.

55.—(1.) An appeal under the last preceding section shall be by way of rehearing.

Evidence on
the hearing
of appeals.

(2.) On any such appeal the Supreme Court may—

- (a) receive further evidence; and
- (b) consider the documentary records of proceedings held and evidence given before the Commissioner.

PART A : LAND—

(3.) Evidence on any such appeal may be taken—

- (a) by oral examination in Court;
- (b) by statutory declaration; or
- (c) by depositions taken before a person commissioned by the Court for the purpose.

(4.) The provisions of sections fifty-one and fifty-two of this Ordinance shall, *mutatis mutandis*, apply to appeals before the Supreme Court.

Powers of
Supreme Court
on appeal.

56. Upon the hearing of an appeal, the Supreme Court may make any order or exercise any jurisdiction, power or authority which the Commissioner could have made or exercised, and may discharge or vary the final order or such part of the final order as is appealed against.

Appeal to High
Court.

57.—(1.) A person aggrieved by—

- (a) an order of the Supreme Court made in pursuance of an appeal under section fifty-four of this Ordinance; or
- (b) a determination by the Supreme Court on a case stated under section forty-four of this Ordinance,

may, subject to this section and to section twelve of the *Supreme Court Ordinance 1949*,⁽¹³⁾ apply to the High Court for leave to appeal to that Court.

(2.) An application for leave to appeal in pursuance of this section—

- (a) shall not be made except on a question of law; and
- (b) shall be lodged within twenty-one days after the Supreme Court makes the order or determination.

(3.) Subject to this Ordinance and to any rules made by the High Court applicable to appeals in pursuance of this section, the proceedings in relation to the application for leave to appeal and the appeal shall be as directed by the High Court.

(4.) The High Court may make such order on the application for leave to appeal and on the appeal as it thinks just.

Appeals against
part only of a
final order.

58.—(1.) A person who appeals, or applies for leave to appeal, in respect of part only of a final order, shall apply to the Supreme Court or the High Court, as the case may be, for—

- (a) directions as to service; and
- (b) a stay of execution in respect of such part of the order as the Supreme Court or the High Court, as the case may be, considers is affected by the appeal.

(13) Printed in this Volume on pp. 290–295.

(2.) The part of the order in respect of which no appeal, or no application for leave to appeal, is made or lodged, and in respect of which a stay of execution is not ordered in pursuance of the last preceding sub-section, shall be implemented notwithstanding the appeal.

(3.) An appeal shall be deemed to be against part only of a final order if it is against some only of the declarations and directions included in the order.

PART V.—INDEX OF UNREGISTERED ADMINISTRATION LANDS.

59.—(1.) The Registrar shall compile, in place of the lost Index of Unregistered Administration Lands formerly compiled under the *Lands Registration Ordinance 1924-1939*⁽²⁾ of the Territory of New Guinea, a new index by the same name, which shall, for all purposes, be deemed to be the lost index which it replaces.

Registrar to compile new index.

(2.) The index shall, so far as it relates to unregistered Administration land included in the lost index, be compiled by the Registrar from available records (including the *Government Gazette* of the Territory of New Guinea) and from such other information as the Registrar considers reliable.

PART VI.—MISCELLANEOUS.

60.—(1.) The legal personal representatives of a person who dies on or after the appointed date may make or continue a claim, objection or application which the deceased person could have made or continued if he had not died.

Death of person entitled to interest before making claim, &c.

(2.) Where a person who is directed by or under this Ordinance to be served with or given any notice or thing is, at the time when the service is to be effected or the thing to be given, dead, that notice or thing shall be served on or given to his legal personal representatives, or to such other person and in such manner, whether by advertisement or otherwise, as the Commissioner directs.

61. A person (including the Commissioner) appointed or employed for the purposes of this Ordinance, is not personally liable for anything done or omitted to be done by him in good faith in the exercise of his powers or the performance of his duties under this Ordinance.

Protection of officers.

62. A person who is entitled to be heard at any hearing or proceedings before the Commissioner under this Ordinance may be represented at that hearing or those proceedings by a barrister or solicitor of the High Court or the Supreme Court of a State or of a Territory under the authority of the Commonwealth.

Legal representation.

(2) See footnote (2) printed in this Volume on p. 620.

PART A : LAND—

Statutory
declarations.

63. A statutory declaration required or permitted by this Ordinance to be furnished shall be—

- (a) if made in the Territory, a declaration made in accordance with the *Statutory Declarations Ordinance* 1950⁽¹⁴⁾; and
- (b) if made in the Commonwealth, or in another Territory under the authority of the Commonwealth, a declaration made in accordance with the law relating to the making of statutory declarations for the time being in force in the Commonwealth or that Territory, as the case may be.

Fees.

64. Subject to this Ordinance, no fees shall be payable to the Administration in respect of—

- (a) the making of a claim, application, reference or objection, or the giving of a notice, under this Ordinance;
- (b) the making of a provisional order or final order; or
- (c) the issuing of a new document, or the making of an entry in a new register, consequent upon a final order.

Contempt of
Commissioner,
&c.

65.—(1.) A person shall not—

- (a) during any hearing or proceedings held before the Commissioner—
 - (i) wilfully interrupt the hearing or proceedings;
 - (ii) conduct himself disrespectfully towards the Commissioner; or
 - (iii) assault or wilfully obstruct a person in attendance at that hearing or those proceedings; or
- (b) refuse or fail to comply with an order or direction lawfully made or given by the Commissioner.

Penalty: Fifty pounds or imprisonment for three months.

(2.) Notwithstanding anything contained in the last preceding sub-section, the Commissioner has the same power to punish contempts as is possessed by the Supreme Court.

Penalty for
fraud.

66. A person shall not—

- (a) in relation to a claim, objection, application, reference or notice made or given under this Ordinance, wilfully and with intent to defraud—
 - (i) destroy, deface, withhold, alter or falsify a document which is relevant thereto; or
 - (ii) mislead or deceive a person who is authorized, in pursuance of this Ordinance, to obtain information or particulars; or

(14) Printed in this Volume on pp. 1215–1216.

- (b) fraudulently procure, or assist in fraudulently procuring, a final order as a result of which the owner of an interest or of native customary rights is deprived thereof wholly or in part.

Penalty: Imprisonment for five years.

67.—(1.) The *Lands Registration Ordinance 1924-1950*⁽²⁾ of the Territory of New Guinea is amended—

Amendment of
*Lands
Registration
Ordinance
1924-1950.*

- (a) by omitting from section two the words “Division 2.—Freeholds already Alienated or in Process of Alienation.” and inserting in their stead the words “Division 2.—Index of Unregistered Administration Lands.”;
- (b) by omitting from section two the words “Division 4.—Existing Administration Leases.”;
- (c) by omitting the heading to Division 2 of Part III. and sections sixteen to forty-three (inclusive);
- (d) by inserting immediately before section forty-three a the heading “Division 2.—Index of Unregistered Administration Lands.”; and
- (e) by omitting Division 4 of Part III.

(2.) After the heading to Part XV. of the *Lands Registration Ordinance 1924-1950*⁽²⁾ the following section is inserted:—

“189A.—(1.) Nothing contained in this Ordinance and no registration thereunder affects any system or custom of land tenure or of succession to land or transmission of land in use amongst natives.”

Native customs
of land tenure
not affected.

“(2.) Notwithstanding anything contained in this Ordinance, no certificate of title or entry in the Register Book shall be of any force or validity as evidence in any dispute between native and native as to the ownership of land or of any interest in or right affecting land.”

(3.) For the purposes of this Ordinance, a person shall be deemed to have been entitled, at the appointed date, to an interest in land, and to be entered or registered in a lost register as the owner of, or person entitled to, that interest if, in the opinion of the Commissioner, he would have been so entitled if—

- (a) the provisions repealed by this section had remained in force;
- (b) no relevant document or register had been lost or destroyed; and
- (c) the procedure prescribed by those provisions had, before the appointed date, been completely applied in relation to that land.

(2) See footnote (2) printed in this Volume on p. 620.

PART A : LAND—

(4.) The *Lands Registration Ordinance 1924-1950*⁽²⁾ of the Territory of New Guinea, as amended by this Ordinance, may be cited as the *Lands Registration Ordinance 1924-1951*.

Rules of Court. 68. The judges of the Supreme Court or a majority of them may make Rules of Court⁽¹⁵⁾ regulating the procedure to be followed in respect of—

- (a) cases stated by the Commissioner under section forty-four of this Ordinance; and
- (b) appeals to the Supreme Court under section fifty-four of this Ordinance.

Regulations. 69. The Administrator in Council may make regulations,⁽¹⁶⁾ not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, and, in particular for providing for—

- (a) the forms to be used for the purposes of this Ordinance;
- (b) the fees (if any) to be paid in respect of anything permitted or required to be done under this Ordinance;
- (c) the procedure to be followed in proceedings under this Ordinance;
- (d) the manner of service and of proof of service of any notice, summons, warrant or other document required by this Ordinance to be served;
- (e) the costs and expenses (including expenses for travelling and for attendance) to be paid to persons summoned by the Commissioner to testify, in pursuance of subsection (1.) of section forty-eight of this Ordinance; and the person by whom those costs and expenses are to be paid; and
- (f) the imposition of penalties, not exceeding a fine of Fifty pounds or imprisonment for three months, for offences against the regulations.

(2) See footnote (2) printed in this Volume on p. 620.

(15) No Rules of Court have been published in Papua and N.G. *Govt. Gaz.* before 1.1.1952.

(16) No regulations have been made before 1.1.1952.