

**ORDINANCES INTERPRETATION ORDINANCE  
1949-1951.<sup>(1)</sup>**

BEING THE  
ORDINANCES INTERPRETATION ORDINANCE 1949  
AS AMENDED BY THE  
ORDINANCES INTERPRETATION ORDINANCE 1950  
AND  
ORDINANCES INTERPRETATION ORDINANCE 1951.

**ORDINANCES INTERPRETATION ORDINANCE  
1949.<sup>(1)</sup>**

**No. 1 of 1949.**

**An Ordinance for the Interpretation of Ordinances,  
and for other purposes.**

**B**E 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*, as follows:—

PART I.—PRELIMINARY.

Short title.

1. This Ordinance may be cited as the *Ordinances Interpretation Ordinance 1949*.<sup>(1)(2)(3)</sup>

Commencement.

2. This Ordinance shall come into operation on the date fixed by proclamation under section two of the *Papua and New Guinea Act 1949*.<sup>(1)(4)</sup>

(1) The *Ordinances Interpretation Ordinance 1949-1951* comprises the *Ordinances Interpretation Ordinance 1949*, as amended by the other Ordinances referred to in the following Table:—

ORDINANCES OF THE GOVERNOR-GENERAL IN COUNCIL.

Short title, number and year.	Date on which made by Gov.-Gen. in Council.	Date on which notified in <i>Cwltth. Gaz.</i>	Date on which took effect.
<i>Ordinances Interpretation Ordinance 1949</i> (No. 1 of 1949)	29.6.1949	21.7.1949	1.7.1949 (Sec. 2, <i>Ordinances Interpretation Ordinance 1949</i> )
<i>Ordinances Interpretation Ordinance 1950</i> (No. 49 of 1950)	19.12.1950	21.12.1950	23.12.1950 (Papua and N.G. <i>Govt. Gaz.</i> of 23.12.1950)
<i>Ordinances Interpretation Ordinance 1951</i> (No. 75 of 1951)	16.11.1951 (a)	22.11.1951	25.11.1951 (Sec. 2, <i>Ordinances Interpretation Ordinance 1951</i> )

(a) Made by the Administrator of the Government of the Cwltth. of Australia in Council.

(2) Words, phrases and sections which have been repealed are enclosed in square brackets and printed in *italics*.

(3) Amendments made by the *Ordinances Interpretation Ordinance 1950* (printed in this Volume on pp. 682-697) and the *Ordinances Interpretation Ordinance 1951* (printed in this Volume on pp. 698-704) are indicated by footnotes.

(4) Now the *Papua and New Guinea Act 1949-1950* printed in this Volume on p. 52.

3. The Ordinances specified in the Schedule to this Ordinance Repeal. are repealed.

4. This Ordinance is divided into Parts, as follows:— Parts.

Part I.—Preliminary. (Sections 1-5).

Part II.—Provisions Applicable to Ordinances Generally.

Division 1.—Words and References. (Sections 6-12).

Division 2.—Time and Distance. (Sections 13-15).

Division 3.—Offences and Penalties. (Sections 16-24).

Division 4.—Operation of Ordinances. (Sections 25-31).

Division 5.—Powers Conferred and Duties imposed by Ordinances. (Sections 32-36).

Division 6.—Regulations and other Subordinate Legislation. (Sections 37-39).

Division 7.—The Numbering and Citation of Ordinances and Regulations. (Sections 40-42).

Division 8.—Repeal and Expiration of Ordinances. (Sections 43-48).

Part III.—Provisions Applicable only to Ordinances of the Territory of Papua. (Sections 49-54).

Part IV.—Provisions Applicable only to Ordinances of the Territory of New Guinea. (Sections 55-57).

Part V.—Provisions Applicable only to Ordinances of the Territory of Papua-New Guinea. (Sections 58-60).

5.—(1.) Except where the contrary intention appears in this Ordinance, this Ordinance shall apply to every Ordinance, including this Ordinance, whether made before or after the commencement of this Ordinance, and shall be binding on the Administration. Application of Ordinance.

(2.) Part II. of this Ordinance shall be read and construed subject to Parts III., IV. and V. of this Ordinance.

(3.) Where an Ordinance confers upon an authority power to make, grant or issue an instrument (including regulations) then, unless the contrary intention appears, this Ordinance shall apply to an instrument so made, granted or issued (whether before or after the commencement of this Ordinance) as if it were an Ordinance.

#### PART II.—PROVISIONS APPLICABLE TO ORDINANCES GENERALLY.

##### *Division 1.—Words and References.*

6. In an Ordinance, unless the contrary intention appears— Interpretation of terms.  
“Act” means an Act of the Parliament of the Commonwealth;

“Acting Administrator” means a person appointed under section sixteen of the *Papua and New Guinea Act 1949*<sup>(4)</sup> to act in the office of Administrator ;

†<sup>(5)</sup> † † † † †

“Australia” includes the whole of the Commonwealth ;  
 “commencement”, in relation to an Ordinance, means the time at which the Ordinance comes into operation ;

“committed for trial” means committed to prison with the view of being tried before the Supreme Court, or admitted to bail upon a recognizance or other security to appear and be so tried ;

“Commonwealth” means the Commonwealth of Australia ;

“Court of Petty Sessions” means a court established under the *Justices Ordinance, 1912-1940*,<sup>(6)</sup> of the Territory of Papua ;

[“District” means, in relation to the Territory of New Guinea, a District declared and defined by proclamation under the Administrative Districts Ordinance 1922,<sup>(7)</sup> and in relation to the Territory of Papua, a District appointed by proclamation under the Justices Ordinance, 1912-1940<sup>(6)</sup> ;]<sup>(8)</sup>

†<sup>(9)</sup> † † † † †

“District Court” means a court established under the *District Courts Ordinance 1924-1938*<sup>(10)</sup> of the Territory of New Guinea ;

[“District Officer” means an officer appointed to administer a District, and includes an Assistant District Officer, the Director of District Services and Native Affairs, and the Assistant Director, Department of District Services and Native Affairs ;]<sup>(11)</sup>

[“estate” includes any estate or interest, charge, right, title, claim, demand, lien, or incumbrance, at law or in equity ;]<sup>(12)</sup>

“financial year” means a period of twelve months ending on the thirtieth day of June ;

(4) See footnote (4) printed in this Volume on p. 660.

(5) The definition “Administration Printer” was added by Section 3 of the *Ordinances Interpretation Ordinance 1951*, printed in this Volume on pp. 684-688.

(6) Now the *Justices Ordinance, 1912-1950*. The *Justices Ordinance, 1912-1940* is printed in *The Laws of the Territory of Papua 1888-1945 (Annotated)*, Vol. II., on pp. 885-954 ; as to subsequent amendments see the Supplementary Table printed in Part B of Volume II.

(7) Printed in *The Laws of the Territory of New Guinea 1921-1945 (Annotated)*, Vol. II., on p. 2005. Repealed and replaced by the *Administrative Districts Ordinance 1951*, printed in this Volume on p. 484.

(8) A new definition of “District” was substituted by Section 3 of the *Ordinances Interpretation Ordinance 1951*, printed in this Volume on pp. 684-688.

(9) The definition “District Commissioner” was added by Section 3 of the *Ordinances Interpretation Ordinance 1950*, printed in this Volume on pp. 682-683.

(10) Now the *District Courts Ordinance 1924-1947*. The *District Courts Ordinance 1924-1938* is printed in *The Laws of the Territory of New Guinea 1921-1945 (Annotated)*, Vol. I., on pp. 1071-1149.

(11) A new definition of “District Officer” was substituted by Section 3 of the *Ordinances Interpretation Ordinance 1950*, printed in this Volume on pp. 682-683.

(12) A new definition of “estate” was substituted by Section 3 of the *Ordinances Interpretation Ordinance 1951*, printed in this Volume on pp. 684-688.



“Governor-General” means the Governor-General of the Commonwealth, or the person for the time being administering the Government of the Commonwealth, acting with the advice of the Federal Executive Council;

“High Court” means the High Court of Australia;

“Imperial Act” means an Act of the Parliament of the United Kingdom;

“indictment” means a written charge preferred against an accused person in order to his trial before the Supreme Court;

†<sup>(13)</sup> † † † † †  
“Judge” means a Judge of the Supreme Court, and includes the Chief Judge and an Acting Judge;

“justice” means a justice of the peace appointed under any law of the Territory;

“land” includes messuages, tenements, and hereditaments corporeal and incorporeal, of any tenure or description, and whatever may be the estate or interest therein;

“law of the Territory” includes a law of the Territory of Papua only or of the Territory of New Guinea only;

“month” means calendar month;

“native” means an aboriginal inhabitant of the Territory, and includes a person who follows, adheres to, or adopts the customs, or who lives after the manner of, the aboriginal inhabitants of the Territory;

†<sup>(14)</sup> † † † † †  
“oath” and “affidavit”, in the case of persons allowed by law to affirm, declare, or promise instead of swearing, include affirmation, declaration, and promise, and “swear”, in the like case, includes affirm, declare and promise;

“officer” or “officer of the Territory” means an officer appointed to the Public Service under the *Papua and New Guinea Act 1949*<sup>(4)</sup>;

“Ordinance” includes—

- (a) an Ordinance of the Territory;
- (b) an Ordinance of the Territory of Papua;
- (c) an Ordinance of the Territory of New Guinea;
- (d) an Ordinance of the Territory of Papua-New Guinea; and
- (e) an Act or other enactment, adopted as a law of, or continued in force in, the Territory or any part of the Territory;

(4) See footnote (4) printed in this Volume on p. 660.

(13) The definition “interest in land” was added by Section 3 of the *Ordinances Revision Ordinance 1951*, printed in this Volume on pp. 684-688.

(14) The definition “native land” was added by Section 3 of the *Ordinances Revision Ordinance 1951*, printed in this Volume on pp. 684-688.



- “Ordinance of the Territory” means an Ordinance made under the *Papua and New Guinea Act 1949*;<sup>(4)</sup>
- “Ordinance of the Territory of New Guinea” means an Ordinance made under the *New Guinea Act 1920-1935*<sup>(15)</sup> and continued in force by the *Papua and New Guinea Act 1949*,<sup>(4)</sup> and includes such an Ordinance as amended by or under Ordinance made under the *Papua-New Guinea Provisional Administration Act 1945-1946*<sup>(16)</sup> or the *Papua and New Guinea Act 1949*<sup>(4)</sup>;
- “Ordinance of the Territory of Papua” means an Ordinance made under or continued in force by the *Papua Act 1905-1940*<sup>(17)</sup> and continued in force by the *Papua and New Guinea Act 1949*,<sup>(4)</sup> and includes such an Ordinance as amended by or under Ordinance made under the *Papua-New Guinea Provisional Administration Act 1945-1946*<sup>(16)</sup> or the *Papua and New Guinea Act 1949*<sup>(4)</sup>;
- “Ordinance of the Territory of Papua-New Guinea” means an Ordinance made under the *Papua-New Guinea Provisional Administration Act 1945-1946*<sup>(16)</sup> and continued in force by the *Papua and New Guinea Act 1949*,<sup>(4)</sup> and includes such an Ordinance as amended by or under Ordinance made under the *Papua and New Guinea Act 1949*<sup>(4)</sup>;
- “person” or “party” includes a corporation sole, and also a body politic or corporate, as well as an individual;
- “prescribed” means prescribed by the Ordinance in which the word occurs or by regulations made under that Ordinance;
- “proclamation” means a proclamation by the Administrator in council and published in the *Gazette*;
- “public holiday” means a day declared by an Ordinance to be a public holiday, or proclaimed or notified under an Ordinance as a public holiday;
- “regulations” means regulations made under an Ordinance and includes rules and by-laws so made;
- “rules of Court”, in relation to a court, means rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of the court;
- “sign”, and its grammatical variations and cognate expressions, with reference to a person who is unable to write his name, includes “mark”, and its grammatical variations and cognate expressions;

(4) See footnote (4) printed in this Volume on p. 660.

(15) Printed in *The Laws of the Territory of New Guinea 1921-1945 (Annotated)*, Vol. I., on pp. 5-15, and repealed by the *Papua and New Guinea Act 1949-1950*, printed in this Volume on pp. 52-76.

(16) Printed in *The Laws of the Territory of Papua-New Guinea 1945-1949 (Annotated)*, on pp. 26-32, and repealed by the *Papua and New Guinea Act 1949-1950*, printed in this Volume on pp. 52-76.

(17) Printed in *The Laws of the Territory of Papua 1888-1945 (Annotated)*, Vol. I., on pp. 2-19, and repealed by the *Papua and New Guinea Act 1949-1950*, printed in this Volume on pp. 52-76.

“solicitor” means a barrister and solicitor of the Supreme Court;

“State” means a State of the Commonwealth;

“statutory declaration” means a declaration made by virtue of a law of the Territory authorizing a declaration to be made otherwise than in the course of a judicial proceeding;

“summary conviction” means conviction by a District Court or Court of Petty Sessions;

†<sup>(18)</sup> † † † † †  
“the Administration” means the Administration or Government of the Territory;

[“the Administration Printer” includes a person printing for the Administration.<sup>(19)</sup>]

“the Administrator” means the Administrator holding office under the *Papua and New Guinea Act 1949*,<sup>(4)</sup> and includes an Acting Administrator and, in relation to any powers and functions which have been assigned to a Deputy Administrator, includes that Deputy Administrator;

“the Administrator in Council” means the Administrator acting with the advice of the Executive Council, whether or not in accordance with that advice;

“the Executive Council” means the Executive Council for the Territory;

“the Gazette” means the *Government Gazette* of the Territory;

†<sup>(20)</sup> † † † † †  
“the Minister” means the Minister of State for the time being administering the *Papua and New Guinea Act 1949*,<sup>(4)</sup> and includes a Minister of State or member of the [*Executive Council*]<sup>(21)</sup> for the time being acting for or on behalf of that Minister;

†<sup>(22)</sup> † † † † †  
“the Public Service” means the Public Service of the Territory;

“the Supreme Court” means the Supreme Court of the Territory;

(4) See footnote (4) printed in this Volume on p. 660.

(18) The definition “the Act” was added by Section 3 of the *Ordinances Interpretation Ordinance 1950*, printed in this Volume on pp. 682-683.

(19) The definition of “the Administration Printer” was omitted by Section 3 of the *Ordinances Interpretation Ordinance 1951* printed in this Volume on pp. 684-688.

(20) A new definition of “the Legislative Council” was added by Section 3 of the *Ordinances Interpretation Ordinance 1951*, printed in this Volume on pp. 684-688.

(21) The definition “the Minister” was amended by Section 3 of the *Ordinances Interpretation Ordinance 1950*, printed in this Volume on pp. 682-683, by omitting the words “Executive Council” and inserting instead the words “Federal Executive Council”.

(22) A new definition of “the Police Force” was added by Section 3 of the *Ordinances Interpretation Ordinance 1951*, printed in this Volume on pp. 684-688.

PART A: LAWS (INTERPRETATION, REPRINTING AND REVISION)—

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

†<sup>(23)</sup> † † † † †  
“will” includes codicil;

“writing” and expressions referring to writing include printing, painting, engraving, typewriting, lithography, photography, and all other modes of representing or reproducing words in a visible form.

Meaning of service by post.

7. Where an Ordinance authorizes or requires a document to be served by post, whether the expression “serve” or the expression “give” or “send” or any other expression is used, then, unless the contrary intention appears, the service shall be deemed to be effected by properly addressing, prepaying (except where under a law of the Territory the document may be sent by post free of charge), and posting the document as a letter, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

References to “the Administration”, &c.

8. Where in an Ordinance reference is made to “the Administration”, “the Commonwealth”, or “the Crown”, in relation to the public ownership of land in the Territory of New Guinea, those expressions shall, unless the contrary intention appears, be deemed to refer to the Government of the Commonwealth of Australia as Administering Authority under the Trusteeship Agreement<sup>(24)</sup> approved by the General Assembly of the United Nations on the thirteenth day of December, One thousand nine hundred and forty-six.

Gender and number.

9. In an Ordinance, unless the contrary intention appears—

(a) words importing the masculine gender include females; and

(b) words in the singular include the plural and words in the plural include the singular.

Office, &c., means office, &c., of the Territory.

10. In an Ordinance of the Territory, unless the contrary intention appears—

(a) references to an officer or office shall be construed as references to that officer or office in and for the Territory; and

(b) references to localities, jurisdictions, and other matters and things, shall be construed as references to those localities, jurisdictions, and other matters and things, in and of the Territory.

(23) A new definition of “town” was added by Section 3 of the *Ordinances Interpretation Ordinance* 1951, printed in this Volume on pp. 684–688.

(24) See the Fourth Schedule to the *Papua and New Guinea Act* 1949–1950, printed in this Volume on pp. 52–76.



**11.** Where an Ordinance confers power to make, grant, or issue an instrument (including regulations, a proclamation, an order or a notice)—

Expressions in instruments under Ordinance.

- (a) expressions used in an instrument so made, granted or issued shall, unless the contrary intention appears, have the same meanings as in the Ordinance conferring the power; and
- (b) this Ordinance shall apply to any instrument so made, granted or issued as if it were an Ordinance and, in the case of rules, regulations or by-laws, as if each such rule, regulation or by-law were a section of an Ordinance.

**12.** Whenever forms are prescribed, substantial compliance with those forms shall suffice.

Deviation from forms.

*Division 2.—Time and Distance.*

**13.—(1.)** In computing time for the purposes of an Ordinance, unless the contrary intention appears a period of time from a certain day or the happening of an event or the doing of an act or thing shall be deemed to be exclusive of the certain day or the day on which the event happens or the act or thing is done.

Computation of time.

(2.) If the last day of a period prescribed or allowed by an Ordinance for the doing of an act falls on a Sunday or a public holiday, the act may be done on the next day following which is not a Sunday or public holiday.

(3.) When an act or proceeding is, by an Ordinance, directed or allowed to be done or taken on a certain day, then if that day happens to be a Sunday or public holiday, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day following which is not a Sunday or public holiday.

(4.) When an act or proceeding is, by an Ordinance, directed or allowed to be done or taken within a time not exceeding eight days, Sundays and public holidays shall not be reckoned in the computation of the time.

**14.** Where no time is prescribed or allowed within which an act required by an Ordinance shall be done, that act shall be done with all convenient speed and as often as the prescribed occasion arises.

Provisions where no time prescribed.

**15.** In the measurement of a distance for the purposes of an Ordinance, that distance shall, unless the contrary intention appears, be measured in a straight line on a horizontal plane.

Measurement of distances.

PART A: LAWS (INTERPRETATION, REPRINTING AND REVISION)—

*Division 3.—Offences and Penalties.*

Penalties prescribed to be maximum penalties.

**16.** Where in an Ordinance a penalty is provided for an offence against the Ordinance, the provision shall mean, unless the contrary intention appears, that the offence shall be punishable by a penalty not exceeding the penalty mentioned.

Penalties at foot of sections or sub-sections.

**17.—(1.)** The penalty, pecuniary or other, set out—

(a) at the foot of a section of an Ordinance; or

(b) at the foot of a sub-section of a section of an Ordinance, but not at the foot of the section,

shall mean that a contravention of the section or of the sub-section respectively, whether by act or omission, shall be an offence against the Ordinance, punishable upon conviction by a penalty not exceeding the penalty mentioned.

(2.) Where the penalty is expressed to apply to a part only of the section or sub-section, it shall apply to that part only.

Imprisonment.

**18.** Where under an Ordinance imprisonment may be awarded for an offence, it may be awarded with or without hard labour, unless the contrary intention appears.

Fines, &c., to be paid to Treasurer.

**19.** Where an Ordinance imposes or authorizes the imposition of a fine, penalty or forfeiture, that Ordinance, unless it otherwise directs, shall be deemed to provide that that fine, penalty or forfeiture, when recovered, shall be paid to the Treasurer to defray the expenditure of the Territory.

Corporations liable to, and may sue for, penalties.

**20.—(1.)** Every provision of an Ordinance relating to offences punishable on indictment or summary conviction shall, unless the contrary intention appears, be deemed to refer to bodies corporate as well as to persons.

(2.) Where under an Ordinance a forfeiture or penalty is payable to a party aggrieved, it shall be payable to a body corporate where the body corporate is the party aggrieved.

Provisions as to offences under two or more laws.

**21.** Where an act or omission constitutes an offence under two or more Ordinances, or both under an Ordinance and under another law of the Territory, the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished under either or any of those Ordinances, or either under that Ordinance or under that other law, but shall not be liable to be punished twice for the same offence.

Indictable offence.

**22.** An offence declared to be treason, crime, misdemeanour, or indictable offence, and an offence which is punishable by imprisonment for a period exceeding twelve months, shall, unless the contrary intention appears in the Ordinance creating the offence, be an indictable offence.

23. An offence which is not an indictable offence shall, unless the contrary intention appears in the Ordinance creating the offence, be punishable on summary conviction. Offences punishable on summary conviction.

24. A person who attempts to commit an offence against any law of the Territory shall be guilty of an offence and shall, unless the contrary intention appears, be liable to trial and punishment as if the attempted offence had been committed. Attempt to commit an offence to be deemed an offence.

*Division 4.—Operation of Ordinances.*

25. Every Ordinance shall, unless the contrary is expressly provided, be deemed to be a public Ordinance [and shall be judicially noticed as such.<sup>(25)</sup>] Ordinances to be public Ordinances.

26. Every section of an Ordinance shall have effect as a substantive enactment without introductory words. Sections to be substantive enactments.

27.—(1.) The headings of the Parts and Divisions into which an Ordinance is divided shall be deemed to be part of the Ordinance. Headings, Schedules, marginal notes and footnotes.

(2.) Every Schedule to an Ordinance shall be deemed to form part of the Ordinance.

(3.) Neither the marginal notes nor the footnotes to an Ordinance shall be deemed to be part of the Ordinance.

28. Every Ordinance amending another Ordinance shall, unless the contrary intention appears, be construed with and as part of the amended Ordinance. Amending Ordinance to be construed with amended Ordinance.

29. An Ordinance shall not in any manner adversely affect the rights of the Administration or bind the Administration unless it is therein expressly provided, or unless it appears by necessary implication, that the Administration is bound thereby. Rights of the Administration.

† (26) † † † † †

30.<sup>(27)</sup> Where an Ordinance or part of an Ordinance, or an instrument made thereunder (including regulations, a proclamation, an order or a notice), is expressed to come into operation on a particular day, it shall come into operation immediately on the expiration of the day next preceding that day. Time when Ordinance or instrument comes into operation.

31.—(1.) Subject to this section, where an Ordinance or a provision of an Ordinance which is not to come into operation immediately on the passing thereof confers power to make an Exercise of statutory power between passing and commencement.

(25) Section 25 was amended by Section 4 of the *Ordinances Interpretation Ordinance 1951*, printed in this Volume on pp. 684-688, by omitting the words "and shall be judicially noticed as such".

(26) Section 29A which relates to commencement of Ordinances of the Legislative Council was added by Section 5 of the *Ordinances Interpretation Ordinance 1951*, printed in this Volume on pp. 684-688.

(27) Section 30 was amended by Section 6 of the *Ordinances Interpretation Ordinance 1951*, by inserting at the commencement thereof the words "subject to the last preceding section,".

*On the day on which it occurred the House's order of the date on which the notification is published in the Gazette that the Bill has received the Royal assent.*



7  
PART A: LATWS (INTERPRETATION, REPRINTING AND REVISION)—

appointment, or to make, grant, or issue any instrument (including regulations, a proclamation or an order), or to give notices, or to do any other act for the purposes of the Ordinance, that power may, unless the contrary intention appears, be exercised at any time after the passing of the Ordinance for the purpose of bringing the Ordinance or provision into operation at the commencement thereof.

*at any time after the Ordinance  
received assent*

(2.) Any such instrument, notice, or act made, granted, issued or done shall not, unless the contrary intention appears in the Ordinance, or the instrument, notice or act is necessary for bringing the Ordinance into operation, have any effect until the Ordinance comes into operation.

*Division 5.—Powers Conferred and Duties Imposed by Ordinances.*

Exercise of powers and performance of duties.

**32.**—(1.) Where an Ordinance confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(2.) Where an Ordinance confers a power or imposes a duty on the holder of an office as such, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed by the holder for the time being of the office.

(3.) Where an Ordinance confers a power to make or issue regulations, proclamations, orders, or notices, the power shall, unless the contrary intention appears, be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to rescind, revoke, amend, or vary the regulations, proclamations, orders, or notices.

(4.) Where an Ordinance confers upon a person or authority a power to make appointments to an office or place, the power shall, unless the contrary intention appears, be construed as including a power to remove or suspend a person appointed, and to appoint another person temporarily in the place of a person so removed or suspended or in the place of a sick or absent holder of that office or place:

Provided that where the power of a person or authority to make any such appointment is exercisable only upon the recommendation, or subject to the approval or consent, of some other person or authority, the power of removal or the power of suspension shall, unless the contrary intention appears, be exercisable only upon the recommendation, or subject to the approval or consent, of that other person or authority.

(5.) Where an Ordinance confers upon the Governor-General or the Minister a power to make appointments to an office or place, the Administrator may, unless the contrary intention appears, where the holder of the office or place is absent from his office or place on leave or is unable to perform the duties of his office or place or is suspended from duty, appoint an officer to act in the place of the holder of the office or place during the absence, inability or suspension.

(6.) Where an Ordinance confers power on a person or authority to make regulations for a general purpose, and also for special purposes incidental thereto or included therein, the enumeration of the special purposes shall not be deemed to derogate from the generality of the powers conferred with reference to the general purpose.

**33.** A court, Judge, justice of the peace, officer, commissioner, arbitrator, or other person authorized by law to hear and determine a matter, shall have authority to receive evidence and examine witnesses and to administer an oath to all witnesses legally called. Power to determine includes authority to administer oath.

**34.** Where, by or under an Ordinance, the Administrator or an officer or authority is empowered to appoint or name a person to have and exercise powers or perform duties, the Administrator or the officer or authority may either appoint a person by name or direct the person for the time being holding the office designated by the Administrator or by the officer or authority, to have and exercise those powers and perform those duties and thereupon, or from the date specified by the Administrator or by the officer or authority, the person appointed by name or the person holding the office designated shall have and may exercise those powers and perform those duties accordingly. Appointment of officers by name or office.

**35.** An act shall be deemed to be done under an Ordinance or by virtue of the powers conferred by an Ordinance or in pursuance or execution of the powers of or under the authority of an Ordinance if it is done under or by virtue of or in pursuance of a regulation, proclamation, order or notice made or issued under any power contained in the Ordinance. Acts done under regulation, &c., to be deemed done under Ordinance by which regulation, &c., authorized.

**36.** Unless the contrary intention appears in an Ordinance, whenever an Ordinance requires or permits an act or thing to be done by more than two persons, a majority of them may do it. Power of majority of more than two persons.

*Division 6.—Regulations and other Subordinate Legislation.*

**37.—(1.)** Regulations or orders made or given under an Ordinance, unless the contrary intention appears in the Ordinance—

(a) shall be published in the *Gazette*; and

PART A : LAWS (INTERPRETATION, REPRINTING AND REVISION)—

(b) shall, subject to this section, take effect from the date of publication, or where another date is specified in the regulations, from the date specified.

(2.) Regulations or orders shall not be expressed to take effect from a date before the date of publication in a case where, if they so took effect—

(a) the rights of a person (other than the Administration or an authority of the Administration) existing at the date of publication would be affected in a manner prejudicial to that person; or

(b) liabilities would be imposed on a person (other than the Administration or an authority of the Administration) in respect of anything done or omitted to be done before the date of publication,

and where, in any regulation or order, a provision is made in contravention of this sub-section, that provision shall be void and of no effect.

(3.) Regulations shall be subject at any time to disallowance in whole or in part by the Governor-General, and a regulation so disallowed shall cease to have effect from the date of publication in the *Gazette* of notice of the disallowance.

(4.) Where a regulation is disallowed under this section, the disallowance of the regulation shall have the same effect as a repeal of the regulation, except that, if the regulation amended or repealed any law in force immediately before that regulation took effect, the disallowance of that regulation shall revive the previous law from the date of publication in the *Gazette* of notice of the disallowance, as if the disallowed regulation had not been made.

Proclamations,  
&c., judicially  
noticed.

[38. *Every regulation, proclamation or order by the Administrator or by the Administrator in Council made or purporting to be made in pursuance of an Ordinance, and every act, matter or thing of which publication in the Gazette is directed by an Ordinance, shall, when so published, be judicially noticed.*<sup>(28)</sup>]

Construction  
of instruments.

39. Where an Ordinance confers upon an authority power to make, grant, or issue an instrument (including regulations), then an instrument so made, granted, or issued (whether before or after the commencement of this Ordinance) shall be read and construed subject to the Ordinance under which it was made, and so as not to exceed the power of that authority, to the intent that where any such instrument would, but for this section, have been construed

(28) Section 38 was repealed by Section 7 of the *Ordinances Interpretation Ordinance* 1951, printed in this Volume on pp. 684-688.



as being in excess of the power conferred upon that authority, it shall nevertheless be a valid instrument to the extent to which it is not in excess of that power.

*Division 7.—The Numbering and Citation of Ordinances and Regulations.*

[40. The Ordinances of the Territory passed in each secular year shall be numbered in regular arithmetical series beginning with the number one, in the order in which they are notified in the Commonwealth of Australia Gazette.<sup>(29)</sup>]

Numbering of Ordinances.

41.—(1.) The regulations made under Ordinances in each secular year shall be numbered in regular arithmetical series, beginning with the number one, in the order in which they are published in the *Gazette*.

Numbering of Regulations

(2.) Regulations may, without prejudice to any other mode of citation, be cited by reference to the secular year in which they were made and the number given under the last preceding sub-section.

(3.) Regulations made under Ordinances of the Territory of Papua, the Territory of New Guinea, or the Territory of Papua-New Guinea at any time before the commencement of this Ordinance, may, without prejudice to any other mode of citation, be cited by reference to the secular year in which they were made and their number, with the addition of the words “of the Territory of Papua”, “of the Territory of New Guinea” or “of the Territory of Papua-New Guinea”, as the case may be.

42.—(1.) In an Ordinance, instrument (including regulations) or document—

Citation of Ordinances.

- (a) an Ordinance of the Territory may be cited by its short title or by reference to the secular year in which it was passed and its number;
- (b) an Ordinance of the Territory of Papua may be cited by its short title or by reference to the secular year in which it was passed and its number, with the addition in either case of the words “of the Territory of Papua”;
- (c) an Ordinance of the Territory of New Guinea may be cited by its short title or by reference to the secular year in which it was passed and its number, with the addition in either case of the words “of the Territory of New Guinea”;

(29) Section 40 was repealed and a new Section 40 inserted by Section 8 of the *Ordinances Interpretation Ordinance* 1951, printed in this Volume on pp. 684-688

- (d) an Ordinance of the Territory of Papua-New Guinea may be cited by its short title or by reference to the secular year in which it was passed and its number, with the addition in either case of the words “ of the Territory of Papua-New Guinea ”;
- (e) an Act may be cited by its short title or by reference to the secular year in which it was passed and its number; and
- (f) an Imperial Act may be cited by its short title (if any) or by reference to the regnal year in which it was passed and its chapter.

(2.) An enactment may be cited by reference to the part, section, sub-section, or other division of the Ordinance, Act, or Imperial Act in which the enactment is contained.

(3.) Every such reference shall be made according to the copy of the enactment printed by the Administration Printer or the Government Printer of the Commonwealth, or the King's Printer in London (as the case may be), or purporting to be so printed.

(4.) For the purposes of this section, “ the Administration Printer ” includes the Government Printer of the Territory of Papua, the Administration Printer of the Territory of New Guinea, the Administration Printer of the Territory of Papua-New Guinea and the Administration Printer of the Territory.

*Division 8.—Repeal and Expiration of Ordinances.*

Effect of repeal of repealing Ordinance.

**43.** The repeal of an Ordinance or part of an Ordinance by which a previous Ordinance or part of an Ordinance was repealed shall not, without express words, have the effect of reviving the last-mentioned Ordinance or part of an Ordinance.

Effect of repeal.

**44.** Where an Ordinance repeals in the whole or in part a former Ordinance, then, unless the contrary intention appears, the repeal shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of the Ordinance so repealed, or anything duly done or suffered under the Ordinance so repealed; or
- (c) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under the Ordinance so repealed; or
- (d) affect any penalty, forfeiture, or punishment incurred in respect of an offence committed against the Ordinance so repealed; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment;

and any such investigation, legal proceeding, or remedy may be instituted, continued or enforced, and that penalty, forfeiture, or punishment may be imposed, as if the repealing Ordinance had not been passed.

45. Where an Ordinance repeals in the whole or in part a former Ordinance and substitutes provisions in lieu thereof, the repealed provisions shall remain in force until the substituted provisions come into operation. Repealed Ordinances in force until substituted provisions operate.

46. Where an Ordinance repeals and re-enacts, with or without modification, any provision of a former Ordinance, references in another Ordinance to the provision so repealed shall, unless the contrary intention appears, be construed as references to the provision so re-enacted. References to repealed provision.

47. Where in an Ordinance reference is made to another Ordinance and that other Ordinance is subsequently amended or an Ordinance is made in substitution therefor then, unless the contrary intention appears, the reference shall, from the date of the amendment or substitution, be deemed to be to the amended or substituted Ordinance. References to amended Ordinances.

48. The expiration of an Ordinance shall not affect any civil or criminal proceeding previously commenced under the Ordinance, but every such proceeding may be continued and everything in relation thereto be done in all respects as if the Ordinance continued in force. Expiration of Ordinance.

PART III.—PROVISIONS APPLICABLE ONLY TO ORDINANCES OF THE TERRITORY OF PAPUA.<sup>(30)</sup>

49.—(1.) In relation to anything done or to be done after the commencement of this Ordinance, each of the expressions set out hereunder in an Ordinance of the Territory of Papua,<sup>(30)</sup> or in an instrument (including regulations) made under any such Ordinance, shall be read as a reference to the person, authority, matter or thing set out hereunder opposite to that expression:—

† <sup>(31)</sup>	†	†	†	†	†
“Judge”	..	..	Judge of the Supreme Court of the Territory of Papua and New Guinea;		

(30) See *The Laws of the Territory of Papua, 1888-1945 (Annotated)*, Vols. I-IV.

(31) A new definition “Government Printer” was added by Section 9 of the *Ordinances Interpretation Ordinance 1951*, printed in this Volume on pp. 684-688.



- [“Magistrate” or “Resident” District Officer appointed under the Papua and New Guinea Act 1949<sup>(4)</sup>; <sup>(32)</sup>]
- “Petty Sessions” .. the justices of the peace assembled at a court of petty sessions established under the *Justices Ordinance, 1912-1940*,<sup>(6)</sup> of the Territory of Papua;
- “the Administrator” .. the Administrator of the Territory of Papua and New Guinea;
- “the Administrator in Council” in the Administrator in Council of the Territory of Papua and New Guinea;
- †<sup>(33)</sup> † † † † † †  
 “the Central Court” or “the Supreme Court” the Supreme Court of the Territory of Papua and New Guinea;
- “the Chief Magistrate of the Possession”, “the Chief Magistrate”, “the Judicial Officer” or “the Deputy Chief Judicial Officer” a Judge of the Supreme Court of the Territory of Papua and New Guinea;
- “the Executive Council” .. the Executive Council of the Territory of Papua and New Guinea;
- “the Gazette” or “the Government Gazette” the *Government Gazette* of the Territory of Papua and New Guinea;
- [“the Government Printer” the *Administration Printer of the Territory of Papua and New Guinea*; <sup>(34)</sup>]
- [“the Legislative Council” .. the *Governor-General of the Commonwealth, or the person for the time being administering the Government of the Commonwealth, acting with the advice of the Federal Executive Council*; <sup>(35)</sup>]

(4) See footnote (4) printed in this Volume on p. 660.

(6) See footnote (6) printed in this Volume on p. 662.

(32) A new definition of “Magistrate” or “Resident Magistrate” was substituted by Section 9 of the *Ordinances Interpretation Ordinance 1951*, printed in this Volume on pp. 684-688.

(33) A new definition of “the Crown” was added by Section 9 of the *Ordinances Interpretation Ordinance 1951*, printed in this Volume on pp. 684-688.

(34) The definition of “the Government Printer” was omitted by Section 9 of the *Ordinances Interpretation Ordinance 1951*, printed in this Volume on pp. 684-688.

(35) A new definition of “the Legislative Council” was substituted by Section 9 of the *Ordinances Interpretation Ordinance 1951*, printed in this Volume on pp. 684-688.

- “ the Lieutenant-Governor ” the Administrator of the Territory of Papua and New Guinea;
- “ the Lieutenant-Governor in Council ” the Administrator in Council of the Territory of Papua and New Guinea;
- “ the Territory ” .. .. the Territory of Papua.

(2.) In an Ordinance of the Territory of Papua, unless the contrary intention appears, “ native ” means any aboriginal native of New Guinea or of any island adjacent thereto or of any part of the Territory of Papua and also every aboriginal native of Australia or any island adjacent thereto and also every aboriginal native of any island in the Pacific Ocean or of any of the East Indian Islands or of Malaysia that shall whilst he is in the Territory of Papua live after the manner in which aboriginal natives of New Guinea or the islands adjacent thereto live; and also every person that is wholly or partly descended from any aboriginal natives or native aforesaid and that shall whilst he is in the Territory of Papua live after the manner in which aboriginal natives of New Guinea or the islands adjacent thereto live.

**50.** In an Ordinance of the Territory of Papua, references to the Sovereign reigning at the time of the making of that Ordinance, or to the Crown, shall, unless the contrary intention appears, be construed as references to the Sovereign for the time being. References to the Sovereign.

**51.** Where in an Ordinance of the Territory of Papua a power is conferred on an officer or person by the word “ may ” or the words “ it shall be lawful ” or the words “ shall or may be lawful ” applied to the exercise of that power, that word or those words shall be taken to import that the power may be exercised or not at discretion; but where the word “ shall ” is applied to the exercise of any such power the construction shall be that the power conferred must be exercised. Powers, when discretionary.

**52.** A reference in an Ordinance of the Territory of Papua or in an instrument (including regulations) made under any such Ordinance, to an officer, authority, subject, matter or thing shall, in relation to anything done or to be done after the commencement of this Ordinance, be read as a reference to the corresponding or analogous officer, authority, subject, matter or thing in or of the Territory of Papua and New Guinea. References to officers, authorities, &c.

**53.** The date appearing on the copy of an Ordinance of the Territory of Papua printed by the Government Printer of that Territory or purporting to be so printed, and purporting to be the date on which the Lieutenant-Governor or Administrator assented thereto or made known the Governor-General’s assent, Evidence of date of assent or notification of assent.

PART A : LAWS (INTERPRETATION, REPRINTING AND REVISION)—

shall be evidence that that date was the date on which the Lieutenant-Governor or Administrator so assented or made known the Governor-General's assent, and shall be judicially noticed.

Measurement of distance.

54. For the purposes of an Ordinance of the Territory of Papua, distance shall be computed according to the nearest road ordinarily used in travelling unless measurement in a direct line be expressed or that construction be rendered necessary by the context.

PART IV.—PROVISIONS APPLICABLE ONLY TO ORDINANCES OF THE TERRITORY OF NEW GUINEA. (36)

Interpretation of terms.

55.—(1.) In relation to anything done or to be done after the commencement of this Ordinance, each of the expressions set out hereunder in an Ordinance of the Territory of New Guinea, or in an instrument (including regulations) made under any such Ordinance, (36) shall be read as a reference to the person, authority, matter or thing set out hereunder opposite to that expression:—

† (37)	†	†	..	†	†	†
“Judge”	..	..	Judge of the Supreme Court of the Territory of Papua and New Guinea;			
“medical practitioner” or any cognate phrase	or	a person registered as a medical practitioner under the <i>Medical Ordinance 1924-1940</i> (38) of the Territory of New Guinea;				
“the Administration”	..	the Administration of the Territory of Papua and New Guinea;				
[“the Administration Printer”	the	<i>Administration Printer of the Territory of Papua and New Guinea</i> ; (39)]				
“the Administrator”	..	the Administrator of the Territory of Papua and New Guinea;				
“the Administrator Council”	in	the Administrator in Council of the Territory of Papua and New Guinea;				
“the Executive Council”	..	the Executive Council for the Territory of Papua and New Guinea;				
“the Gazette” or “the New Guinea Gazette”	the	<i>Government Gazette</i> of the Territory of Papua and New Guinea;				

(36) See *The Laws of the Territory of New Guinea 1921-1945 (Annotated)*, Vols. I-IV.  
 (37) A new definition “Administration Printer” was added by Section 10 of the *Ordinances Interpretation Ordinance 1951*, printed in this Volume on pp. 684-688.  
 (38) Printed in *The Laws of the Territory of New Guinea 1921-1945 (Annotated)*, Vol. II., on pp. 2219-2230.  
 (39) The definition “the Administration Printer” was omitted by Section 10 of the *Ordinances Interpretation Ordinance 1951*, printed in this Volume on pp. 684-688.



[“the Legislative Council”.. the Governor-General of the Commonwealth, or the person for the time being administering the Government of the Commonwealth, acting with the advice of the Federal Executive Council,<sup>(40)</sup>]

“the Supreme Court” or the Supreme Court of the Territory  
“the Central Court” of Papua and New Guinea;  
“the Territory” .. the Territory of New Guinea.

(2.) In an Ordinance of the Territory of New Guinea, unless the contrary intention appears, “native” means an aboriginal native of the Island of New Guinea or of any island or archipelago adjacent thereto, or of any part of the Territory of New Guinea, Australia, Papua, or the British Solomon Islands Protectorate; and includes an aboriginal native of any island of the Pacific Ocean or of any of the East Indian Islands or of Malaysia who follows, adheres to, or adopts the customs or who lives after the manner of the aboriginal natives of the Territory of New Guinea; and includes also any person who is wholly or partly descended from any aboriginal native or natives aforesaid and who follows, adheres to, or adopts the customs or who lives after the manner of the aboriginal natives of the Territory of New Guinea.

**56.** A reference in an Ordinance of the Territory of New Guinea, or in an instrument (including regulations) under any such Ordinance, to an officer, authority, subject, matter or thing shall, in relation to anything done or to be done after the commencement of this Ordinance, be read as a reference to the corresponding or analogous officer, authority, subject, matter or thing in or of the Territory of Papua and New Guinea.

References to officers, authorities, &c.

**57.** The date appearing on the copy of an Ordinance of the Territory of New Guinea printed by the Administration Printer of that Territory, or purporting to be so printed, and purporting to be the date on which the Administrator assented to the Ordinance, or published within that Territory a notification that it had received the Governor-General's assent, shall be evidence that that date was the date on which the Administrator assented or published within that Territory a notification of the Governor-General's assent, and shall be judicially noticed.

Evidence of date of assent or notification of assent.

#### PART V.—PROVISIONS APPLICABLE ONLY TO ORDINANCES OF THE TERRITORY OF PAPUA-NEW GUINEA.<sup>(41)</sup>

**58.—(1.)** In relation to anything done or to be done after the commencement of this Ordinance, each of the expressions set out hereunder in an Ordinance of the Territory of Papua-New Guinea,

Interpretation of terms.

(40) A new definition of “the Legislative Council” was substituted by Section 10 of the *Ordinances Interpretation Ordinance 1951*, printed in this Volume on pp. 684-688.

(41) See *The Laws of the Territory of Papua-New Guinea 1945-1949 (Annotated)*.

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or in an instrument (including regulations) made under any such Ordinance,<sup>(41)</sup> shall be read as a reference to the person, authority, matter or thing set out hereunder opposite to that expression:—

“ Judge ”	..	Judge of the Supreme Court of the Territory of Papua and New Guinea;
“ the Administration ”	..	the Administration of the Territory of Papua and New Guinea;
“the Administration Printer”	..	the Administration Printer of the Territory of Papua and New Guinea;
“ the Administrator ”	..	the Administrator of the Territory of Papua and New Guinea;
“ the Gazette ”	..	the <i>Government Gazette</i> of the Territory of Papua and New Guinea;
“ the Supreme Court ”	..	the Supreme Court of the Territory of Papua and New Guinea;
“ the Territory ”	..	the Territory of Papua and New Guinea.

(2.) In an Ordinance of the Territory of Papua-New Guinea, unless the contrary intention appears, “ native ” means an aboriginal native of the Territory or of any island or archipelago adjacent thereto, Australia, or the British Solomon Islands Protectorate; and includes an aboriginal native of any island of the Pacific Ocean or of any of the East Indian Islands or of Malaysia who follows, adheres to, or adopts the customs or who lives after the manner of the aboriginal natives of the Territory, and includes also any person who is wholly or partly descended from any aboriginal native or natives aforesaid and who follows, adheres to, or adopts the customs or who lives after the manner of the aboriginal natives of the Territory.

References  
to officers,  
authorities, &c.

**59.** A reference in an Ordinance of the Territory of Papua-New Guinea, or in an instrument (including regulations) under any such Ordinance, to an officer, authority, subject, matter or thing shall, in relation to anything done or to be done after the commencement of this Ordinance, be read as a reference to the corresponding or analogous officer, authority, subject, matter or thing in or of the Territory of Papua and New Guinea.

Proclamations,  
&c., judicially  
noticed.

[**60.** *Every regulation, proclamation or order by the Administrator of the Territory of Papua-New Guinea made or purporting to be made in pursuance of an Ordinance of the Territory of Papua. the Territory of New Guinea or the Territory of Papua-New*

(41) See *The Laws of the Territory of Papua-New Guinea 1945-1949 (Annotated)*.

*Guinea, and every act, matter or thing [of which]<sup>(42)</sup> published in the Government Gazette of the Territory of Papua-New Guinea by virtue of any such Ordinance, either alone or in conjunction with the Ordinances Interpretation Ordinance 1945-1946<sup>(43)</sup> of the Territory of Papua-New Guinea, shall be judicially noticed.<sup>(44)</sup>]*

### THE SCHEDULE.

#### ORDINANCES OF THE TERRITORY OF PAPUA.

*Ordinance Interpretation Ordinance, 1911.*(45)  
*Ordinance Interpretation Ordinance, 1918.*(45)  
*Ordinance Interpretation Ordinance, 1933.*(45)  
*Ordinance Interpretation Ordinance, 1939.*(45)  
*Ordinance Interpretation Ordinance, 1940.*(45)

#### ORDINANCES OF THE TERRITORY OF NEW GUINEA.

*Ordinances Interpretation Ordinance 1934.*(46)  
*Ordinances Interpretation Ordinance 1935.*(46)  
*Ordinances Interpretation Ordinance 1937.*(46)  
*Ordinances Interpretation Ordinance 1939.*(46)  
*Ordinances Interpretation Ordinance 1941.*(46)

#### ORDINANCES OF THE TERRITORY OF PAPUA-NEW GUINEA.

*Ordinances Interpretation Ordinance 1945.*(47)  
*Ordinances Interpretation Ordinance 1946.*(47)

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(42) Section 60 was amended by Section 4 of the *Ordinances Interpretation Ordinance 1950*, printed in this Volume on pp. 682-683, by omitting the words "of which".

(43) Printed in *The Laws of the Territory of Papua-New Guinea 1945-1949 (Annotated)*, on pp. 167-171.

(44) Section 60 was repealed by Section 11 of the *Ordinances Interpretation Ordinance 1951*, printed in this Volume on pp. 684-688.

(45) Printed in *The Laws of the Territory of Papua 1888-1945 (Annotated)*, Vol. III., on pp. 2781-2792.

(46) Printed in *The Laws of the Territory of New Guinea 1921-1945 (Annotated)*, Vol. III., on pp. 3019-3031.

(47) Printed in *The Laws of the Territory of Papua-New Guinea 1945-1949 (Annotated)*, on pp. 167-171.